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LANGDON, STALON, AND TRABANDT NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF JERRY J. LANGDON, CHARLES G. STALON, AND CHARLES A. TRABANDT TO BE COMMISSIONERS OF THE FEDERAL ENERGY REGULATORY COMMISSION

SEPTEMBER 19, 1988

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LANGDON, STALON, AND TRABANDT NOMINATIONS

MONDAY, SEPTEMBER 19, 1988

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Senate Office Building, Hon. J. Bennett Johnston, chairman, presiding.

OPENING STATEMENT OF HON. J. BENNETT JOHNSTON, U.S. SENATOR FROM LOUISIANA

The CHAIRMAN. The hearing will come to order.

This morning we have a hearing on three pending nominations for membership on the Federal Energy Regulatory Commission. I am delighted to convene this hearing because it signifies that we have an agreement with the White House on FERC nominations.

I have been working on this problem for over a year—since last June when Martha Hesse was nominated for a second term. I have been urging the President and his advisors to work with us to come up with an acceptable package so that we can confirm the nominees before the Congress goes home for the year. We all agreed on a package in August, and the Committee actually received the nominations of Jerry Langdon and Chuck Trabandt a week ago today.

The President previously nominated three people, Martha, Hesse, Charles Stalon, and Betsy Moler to serve on the Commission. The committee has already voted to recommend the confirmation of Betsy Moler and Martha Hesse.

The net result of our deliberations will be the confirmation of the entire membership of Commission, God willing. All three sitting Commissioners will continue to sit on the Commission, and two new faces will be added. Commissioners Stalon and Trabandt are well known by the committee. They have performed well at the Commission, and I am sure they will continue to do so.

I am pleased with the addition of Jerry Langdon. He has practical experience in the business end of the oil and gas industry. That type of knowledge is much needed on the Commission. He will be able to make a valuable contribution in the weeks and months ahead.

Much work needs to be done at the Commission. There are a number of issues pending before the Commission in which this committee has a vital interest. FERC has yet to issue a final rule in response to the D.C. Circuit's decision in the case of Associated Gas Distributors versus FERC, reviewing the Commission's open access rule for interstate natural gas pipelines. Many gas inventory charge proposals are working their way through the Commission, and I have urged the Commission to act quickly on pending proposals.

FERC has issued four interrelated notices of proposed rulemaking with respect to electric utilities. The proposals are very far reaching and controversial. Much work needs to be done in order to make those proposals a workable blueprint for power supplies for the electric utility industry. I want to impress upon these nominees the seriousness with which we view those electric proposals. There certainly should not be any "rush to judgment" on them in our view.

Having said that, however, I should note that I feel confident the committee will act quickly on these remaining nominations and that the full Senate will confirm all five nominations in the near future.

I have statements to enter in the record at this point from Senators McClure, Dixon, Simon, and Gramm.

[The prepared statements of Senators McClure, Dixon, Simon, and Gramm follow:]

Statement by Senator James A. McClure

Nomination Hearing, September 19, 1988

Jerry J. Langdon, Charles A. Trabandt and Charles G. Stalon
to be Commissioners, Federal Energy Regulatory Commission

Good morning. I am pleased to be here today to receive testimony from three nominees to the Federal Energy Regulatory Commission; Jerry Langdon, Charles Trabandt and Charles Stalon. With the confirmation of these nominees, and the pending Senate confirmations of Martha Hesse and Betsy Moler, the Commission will continue to have a quorum with which to consider the many important issues it will face during the remainder of this year.

Commissioner Trabandt's current term will expire on October 20, 1988. This nomination is to a second term, to expire on October 20, 1992. Chuck is well-known to this Committee, having served on its professional staff for 8 years, as the Committee's chief counsel from 1981 to 1984. He has also had an extensive career in public service, and his legal and technical training and experience in energy matters began in the early 1960's at the Naval Academy, and continued through his 10 years of service as a congressional staff member.

During the past three years that he has served as Commissioner, Chuck has proven his technical expertise and legal knowledge as he worked closely with the other members of the Commission toward a reliance on the free market, something I believe will help ensure the energy security and economic well-being of this nation. I urge my colleagues to join me in supporting his nomination for a second term.

Dr. Stalon has served on the Commission since 1984, and is presently nominated to fill the remainder of the term expiring October 20, 1989, replacing Commissioner Naeve. Prior to his initial nomination and confirmation, he served as a commissioner on the Illinois Commerce Commission, and was an associate professor of economics at Southern Illinois University, and a research economist for the Federal Power Commission.

Dr. Stalon has appeared before this Committee on a number of occasions during his past four years on the Commission, and he has always demonstrated a complete understanding of the complications surrounding the various regulated and changing industries under FERC's jurisdiction. I am most pleased to recommend such a well-qualified nominee to my colleagues, and I would like to indicate my full support of his nomination to a second term. The third nominee before the Committee today is Jerry Jay Langdon.

Mr. Langdon has been nominated to fill the remainder of the term of Anthony Sousa, which expires on October 20, 1988, as well as a full term expiring October 20, 1992.

Mr. Langdon is a self-employed petroleum consultant in Midland, Texas. His professional career in the oil and gas industry includes experience as a gas sales and purchase representative, project analyst, and manager. He is a graduate of the University of Texas, and is a member of a number of professional organizations.

Mr. Chairman, I believe that Mr. Langdon's experience will serve him well as a member of the Commission, and I support his nomination.

STATEMENT OF
SENATOR ALAN J. DIXON
BEFORE THE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARING ON THE

RENOMINATION OF DR. CHARLES STALON
TO THE
FEDERAL ENERGY REGULATORY COMMISSION

SEPTEMBER 19, 1988

MR. CHAIRMAN, I AM VERY PLEASED TO HAVE THE OPPORTUNITY TO OFFER A FEW WORDS IN SUPPORT OF DR. CHARLES STALON'S RENOMINATION TO THE FEDERAL ENERGY REGULATORY COMMISSION.

THE FIRST NICE THING I HAVE TO SAY ABOUT CHARLES STALON IS THAT HE HAILS FROM THE STATE OF ILLINOIS. HE AND I FIRST MET IN 1977, WHEN I WAS ELECTED TO BE ILLINOIS SECRETARY OF STATE, AND HE BECAME A COMMISSIONER IN THE ILLINOIS COMMERCE COMMISSION. IT IS

IN THAT POSITION THAT DR. STALON BEGAN BUILDING A REPUTATION FOR FAIR MINDED TREATMENT OF CONSUMERS, DISTRIBUTORS, AND PRODUCERS ALIKE.

IT WAS, HOWEVER, LONG BEFORE HIS SEVEN YEARS OF SERVICE ON THE ILLINOIS COMMERCE COMMISSION THAT DR. STALON DEVELOPED THE SKILLS NECESSARY TO RENDER EQUITABLE AND SOUND ECONOMIC DECISIONS ON ENERGY MATTERS. IN 1966, CHARLES STALON RECEIVED HIS DOCTORATE IN ECONOMICS FROM PURDUE UNIVERSITY. FROM 1963 TO 1977 HE WAS ASSOCIATE PROFESSOR OF ECONOMICS AT SOUTHERN ILLINOIS UNIVERSITY. DR. STALON'S LIST OF

PUBLICATIONS, SPEECHES, AND TESTIMONIES ON ENERGY MATTERS ARE TOO NUMEROUS TO RECITE.

DR. STALON HAS, THEREFORE, OVER 20 YEARS OF ACADEMIC AND PROFESSIONAL EXPERIENCE WITH THE COMPLEX ISSUES ROUTINELY DEALT WITH AT THE FERC. TO QUOTE THE CHICAGO SUN TIMES, "MR. STALON IS WIDELY REGARDED AS THE INTELLECTUAL LEADER OF THE MOVEMENT TO INTRODUCE FULL COMPETITION AND PIPELINE OPEN ACCESS INTO THE NATURAL GAS INDUSTRY."

I WAS PROUD TO HAVE RECOMMENDED THIS ILLINOISAN FOR HIS FIRST TERM OF SERVICE WITH THE FERC, AND I AM PROUD TO RECOMMEND HIM AGAIN. I AM PLEASED THAT HE HAS BEEN RENOMINATED TO DO WHAT HE IS EMINENTLY QUALIFIED TO DO; HELP GUIDE THE COUNTRY IN THE DIFFICULT TASK OF REGULATING THE PRICE AND AVAILABILITY OF THE ENERGY WE ALL DEPEND ON.

Paul Simon

STATEMENT BY SEN. PAUL SIMON IN SUPPORT OF THE NOMINATION OF CHARLES G. STALON TO THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. Chairman, I am pleased to have the opportunity to express my strong support for the nomination of Commissioner Charles Stalon to continue to serve on the Federal Energy Regulatory Commission.

And I want to begin, Mr. Chairman, by thanking you and the members of this Committee, for your leadership, diligence and cooperation in developing a solution that will allow the Commission--and the producers, utilities and ratepayers of our country--to continue to have the benefit of Commissioner Stalon's knowledge and experience.

I have known Commissioner Stalon for many years, dating back to his presence on the economics faculty at Southern Illinois University. His contributions there led him to the Illinois Commerce Commission, and that experience then brought him to the FERC.

Throughout his career, Commission Stalon has had an excellent reputation as a thoughtful, conscientious scholar who applies consistent principles to his decisions. That's clearly the kind of commissioner we need in any federal regulatory agency, and why the decision to continue his role at FERC is an excellent one.

I strongly support this nominee. I appreciate the opportunity to express that support, and I appreciate the Committee's consideration.

Phil Gramm

STATEMENT OF SENATOR PHIL GRAMM
before the Senate Committee on Energy and Natural Resources
September 19, 1988

Mr. Chairman, I am very pleased to introduce to the Committee Mr. Jerry J. Langdon, who has been nominated to serve as a Commissioner of the Federal Energy Regulatory Commission (FERC).

Mr. Langdon is from Midland, Texas, one of the principal producing communities in the largest energy producing state in the nation. His direct experience in the industry ranges from working as a roustabout while in college to designing, constructing and operating a natural gas gathering system, to serving as a natural gas consultant. This broad background has provided Mr. Langdon with a thorough knowledge and understanding of the energy sector, which will prove extremely valuable to FERC and the nation, should this committee and the Senate confirm his nomination.

In addition to his direct involvement in the energy sector, Mr. Langdon brings to the Commission a unique personal perspective on energy regulation instilled in him since childhood. His father, Judge Jim Langdon, is a legend in Texas, having served as a commissioner for the Texas Railroad Commission for 17 years--9 of those years as Chairman. The Texas Railroad Commission is the principal state regulatory agency for the oil and gas industry.

Many issues pending before the Commission are important to Texas and the nation as a whole. These include the emerging rulemaking on capacity brokering and pipeline rate reform; completing Order 500 and resolving the take-or-pay issue; expansion of the environmental role with respect to hydropower and water conservation; and action of the proposed rulemakings on the electric sector designed to move the electric industry into a more market-oriented structure. These are complex issues with broad ramifications, and it is imperative that the Commission be represented by members who understand the impact of these issues on the energy community. Mr. Langdon is an ideal candidate for such a critical role.

I am pleased that in nominating Jerry Langdon, President Reagan has continued the historical tradition of having at least one FERC Commissioner from a principal producing state. This tradition has helped to assure balance on the Commission, and I encourage the members of this Committee to preserve that balance by confirming the nomination of Mr. Langdon.

I hope the Committee will act favorably and expeditiously. Thank you.

The **Chairman**. At this time, if the nominees will rise, I will swear in the nominees.

[Whereupon, the nominees were duly sworn by the Chairman.]

The **Chairman**. Before these statements begin, I will ask three questions addressed to each nominee before this committee.

First, will you be available to appear before this committee and other Congressional committees to represent Commission positions and respond to issues of concern to the Congress.

Mr. **Langdon**. I will.

Mr. **Stalon**. I will.

Mr. **Trabandt**. I will, sir.

The **Chairman**. Are you aware of any personal holdings, investments or interests that constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office for which you have been nominated by the President?

Mr. **Langdon**. Mr. Chairman, my financial disclosure statements have been submitted and reviewed by the Office of Government Ethics, and there may be some items that may appear to represent a conflict of interest in the event that I am confirmed by this committee, I will divest myself of those interests immediately and except for that, there are no other conflicts of interest that I am aware of.

Mr. **Stalon**. Mr. Chairman, my investments, personal holdings, and other interests have been reviewed both by myself and the appropriate ethics officers and counselors within the federal government. I have taken appropriate action to avoid any conflict of interest. There are no conflicts of interest or appearances thereof to my knowledge.

Mr. **Trabandt**. Mr. Chairman, my holdings and interests have also been reviewed by ethics officers, and I have no conflicts of interest.

The **Chairman**. Are you involved or do you have any assets held in blind trust?

Mr. **Langdon**. No, sir, I do not.

Mr. **Stalon**. No, sir.

Mr. **Trabandt**. No, sir.

The **Chairman**. All right, gentlemen, you may proceed. Mr. Langdon.

STATEMENT OF JERRY J. LANGDON, NOMINEE TO BE A COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Mr. **Langdon**. Thank you, Mr. Chairman.

I would like to begin my remarks this morning by publicly acknowledging my sincerest thanks to President Reagan for affording me the opportunity and the privilege for this public service as a nominee of the Federal Energy Regulatory Commission. Additionally, I would like to personally thank you, Mr. Chairman and Senator McClure, for the numerous letters and actions each of you have taken on my behalf.

The bipartisan support that this committee has shown has been reflected by the President's courageous selection of these nominees. I believe that the proposed slate of nominees represents a varied blend of philosophies and disciplines which will support thoughtful debate and at the same time decisive action.

Being new to this opportunity for public service, I have not yet met some of the members of this committee. Recognizing that fact, the most some of the members of this committee know about me is what they may have read between the lines of my biographical information. In the way of further introduction, I would like to say that as a child my backyard playground was literally the vast tank farm in my native west Texas, through which much of the Permian Basin oil produced during the last 50 years has flowed.

As a college student, I supported all of my expenses working as a roustabout in the oil fields of Texas. And as an adult, my career has involved alternative fuels development, natural gas transportation, production and marketing. But moreover, I had the very good fortune to be influenced during a lifetime by a father who in his seventeen years of energy regulation in Texas effectively balanced the needs of consumers against the industries he regulated. The lessons he taught me were those of hard work, objectivity, sensitivity, resourcefulness and above all personal integrity.

As a private sector businessman, I believe that supply and demand are the best regulators of any business. As a consumer I recognize that where the insurance of public necessity is concerned, government regulation is essential. I commend the administration of President Reagan and, in particular, the Federal Energy Regulatory Commission for having the courage to allow the energy market to work. Competition on both the supply and demand side of the natural gas market chain, coupled with increasing transportation options, have created alternatives in the industry never before available. Those alternatives are also by the way available to customers. The regulatory framework with which consumers and producers are now working is a flexible one, able to adjust to truer market forces. The result of this effort will hopefully be reliable supplies of natural gas in the future at competitive prices.

As a taxpayer and a citizen, I feel Chairman Hesse's fiscal leadership in implementing the President's user fee initiative during 1987 and 1988 to accomplish a zero net operating cost of the Federal Energy Regulatory Commission is commendable. The automated electronic data system implemented in November of 1987 has standardized and expedited data collection. This on-line computer system will enable the agency to utilize the most current available information in its decision-making processes.

Lastly, if confirmed by this committee, I know that I will face many very difficult and important decisions relating to a myriad of issues. It is my belief that the electric utility industry needs some careful and thoughtful changes to promote competition. The unanticipated growth of independent power producers promulgated under PURPA must be carefully evaluated to stimulate efficiencies and eliminate abuses. The environmental mandates of the hydroelectric projects under the Electric Consumer Protection Act must be carefully weighed against the public necessity. I will, however, pledge to you today that I will work to understand and be sensitive to the views and concerns of each members of this committee. And that I will treat every issue fairly, thoughtfully, expeditiously, and lawfully as dictated by the charge of my commission and by my personal integrity.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Langdon.

Mr. STALON.

STATEMENT OF CHARLES G. STALON, NOMINEE TO BE A COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Mr. STALON. Mr. Chairman, distinguished members of the committee, it is an honor for me to appear before you this morning as President Reagan's nominee for the position of commissioner of the Federal Energy Regulatory Commission.

I have served in that role for the past four years. Prior to that I served almost seven years as a commissioner on the Illinois Commerce Commission with broad responsibilities for regulating both fixed and transportation utilities. Prior to that I served for fourteen years on the economics faculty of Southern Illinois University.

I expect two lessons from past regulatory experience to largely guide my remaining months as an FERC Commissioner if I am confirmed by the Senate. Lesson one is that regulated firms must always be seen as a part of the U.S. economy, and economic regulation and market rivalry are complementary social arrangements for ensuring that firms respond efficiently to consumer demands. Consequently, a principal responsibility of regulators is to set prices and terms of service for regulated firms that enhance the complementarity of regulation and competition. As technological opportunities change and consumer demands change, the roles of regulation and market rivalry must change. In recent years, for many reasons, the nation's tilt in economic policy has been to extend the role of competitive rivalry and shrink the role of economic regulation. The Natural Gas Policy Act of 1978 and the Public Utility Regulatory Policies Act of 1978 are two examples that vitally affect the FERC's sphere of responsibility. I am convinced that tilt has proven to be a wise one. I am pleased to have been granted the opportunity to serve on the FERC for the last four years and attempt to selectively encourage competition in the natural gas and electricity industries. I hope to continue that selective effort.

Lesson two is that FERC regulation, when done well, must in all matters other than routine ones be based on extensive and intensive communication and coordination with a multiplicity of federal, state and private organizations. Key among those are the Congress, federal and state energy and environmental agencies and state economic regulatory bodies. Through the process of communicating with these organizations, the Commission can better understand the impact of its decisions on all sectors of society. Coordination between state regulatory bodies and the FERC is especially important and especially difficult. I have worked diligently to create and preserve communication links to such groups.

As a result of these efforts and my experience as a state regulator, I believe I have been successful in developing a greater awareness of the state and regional interests which FERC Commissioners must recognize. As competition intensifies in the natural gas industry and in some components of the electricity industry, it is crucially important that the FERC understands and demonstrate that it understands, the consequences of its policies and contemplated policies on affected parties.

In summary, I have gained a great deal of experience as a regulator, and I believe that experience will permit me to make an effective contribution to the FERC. I will be honored if this committee chooses to approve me for that position.

The **Chairman**. Thank you, Mr. Stalon.

Mr. Trabandt.

STATEMENT OF CHARLES A. TRABANDT, NOMINEE TO BE A COMMISSIONER, FEDERAL ENERGY REGULATORY COMMISSION

Mr. **Trabandt**. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, it is an honor to appear before the committee as President Reagan's nominee for the position of Commissioner for a term ending on October 20, 1992. As you know, the President has reappointed me for a second term upon expiration of my current appointment. At the outset, I want to thank Chairman Johnston, Senator McClure, and other members of the committee for their support in the appointment process. I also would like to express my appreciation to the Chairman, Members and fine staff of this committee for the assistance and courtesy provided to me since the nomination.

Mr. Chairman, it has been a great privilege for me to serve as a Commissioner over the past three years. I have attempted throughout that period to carry out the mandate of the enabling legislation in section 204 of the Department of Energy Organization Act, "to assess fairly the needs and concerns of all interests affected by federal energy policy." And, I have learned how challenging that mandate can be in the constant rush of adjudications and rulemakings in today's fast-paced regulatory world. These three years also have provided me with a healthy respect for the critical importance of fairness and balance in regulatory decision making that confronts the Commission.

In that regard, Mr. Chairman, accompanying me this morning are the members of my staff, whom I would like to acknowledge. They have been a dedicated and loyal staff over the past three years, and I have often said that they deserve the credit for what we do right while I accept the blame for any mistakes that are made. They deserve the credit in large measure for any successes in my first term, and I want to thank them publicly.

I'd like to proceed now to page 5 on my testimony for those who are following it.

The **Chairman**. You say they deserve the credit for the good things and you deserve the blame?

Mr. **Trabandt**. Yes, sir.

The **Chairman**. Do we have the right man here for Commissioner?

Mr. **Trabandt**. They have agreed to stay on, Senator.

Proceeding at the bottom of page 5, as to the future over the next four years at the Commission, many important challenges remain on the agenda. The Commission still has a long way to go in establishing a permanent and stable form of open access transportation with eventual resolution of the take-or-pay issue in the natural gas industry. The transition in the industry is well underway and the outline of the result has been developed, but many of the concepts are only in an early stage of implementation. We must move systematically to complete those efforts and restore some certainty in the natural gas regulatory programs. We also must continue to expedite the early availability of new natural gas supply for the Northeast and California, while ensuring an adequate supply and deliverability in the production sector for this additional demand.

The electric power program should proceed on an evolutionary basis to address competitive issues in the generation and transmission sectors. The Commission should eliminate those features of pending proposals that restructure the electric industry and preempt state regulation, while proceeding promptly to address more immediate and important reform of federal transmission and bulk power regulation. The focus of our activity must ensure increased attention to supply and reliability considerations in the design of regulatory initiatives. The approach also must reflect much greater sensitivity to the responsibilities of state authorities in electric power regulation.

The hydroelectric program must continue to build on the initial implementation of the Electric Consumer Protection Act to ensure "equal consideration" of all river basin resources and values, while maintaining a viable future hydroelectric option for the nation. The new relicensing program must be accelerated to provide timely and orderly processing of the flood of applications anticipated over the next several years. Finally, the oil pipeline program must continue efforts to develop a more competitively based regulation, in concert with ongoing legislative activities in the Congress.

Finally, Mr. Chairman, I believe the President's five pending nominations would do much more than just solve the quorum problem at FERC. The so-called package would provide a balanced and extremely well qualified Commission for the next several years. The Commissioners would blend extensive energy experience on and off the Commission at a critical time in each of the areas of FERC jurisdiction. There would also be a degree of continuity at a time of change and transition in our regulatory program. And, I am convinced the Commissioners would approach major issues with a high degree of independent experience, analysis and thought which is absolutely essential for well reasoned, fair, and balanced decision making. It would be a pleasure and a privilege for me to serve with Betsy Moler, Jerry Langdon, Mr. Stalon, and Martha Hesse in that effort in the years ahead.

Thank you, Mr. Chairman.

[The prepared statement of Charles A. Trabandt follows:]

STATEMENT OF CHARLES A. TRABANDT
NOMINEE TO BE A MEMBER
OF THE
FEDERAL ENERGY REGULATORY COMMISSION

BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

SEPTEMBER 19, 1988

Mr. Chairman and Members of the Committee, it is an honor to appear before the Committee as President Reagan's nominee for the position of Commissioner of the Federal Energy Regulatory Commission for a term ending on October 20, 1992. As you know, the President has reappointed me for a second term upon expiration of my current appointment on October 20, 1988. At the outset, I want to thank Senator McClure, Chairman Johnston and other Members of the Committee for their support in the appointment process. I also would like to express my appreciation to the Chairman, Members and fine staff of the Committee for the assistance and courtesy provided to me since the nomination.

Mr. Chairman, it has been a great privilege for me to serve as a Commissioner over the past three years. I have attempted throughout that period to carry out the mandate of the enabling legislation, in section 204 of the Department of Energy Organization Act, "to assess fairly the needs and concerns of all interests affected by Federal energy policy.". And, I have learned how challenging that mandate can be in the constant rush of adjudications and rulemakings in today's fast-paced regulatory world. These three years also have provided me with a healthy respect for the critical importance of fairness and balance in regulatory decisionmaking that confronts the Commission.

The past three years at FERC have been a time of transition and change in the regulatory programs, as the Commission grappled with changing conditions in the regulated industries. In the natural gas area, the Commission has sought to expand significantly tha benefits of competition engendered by the Natural Gas Policy Act and deliver the advantages of market forces to the city gate and ultimately for the benefit of natural gas consumers. The issues of open access transportation, wellhead contract reformation and take-or-pay obligations have dominated our activities, as we have worked through the transition process. Also, the Commission has continued efforts to provide additional natural gas supplies to the Northeast and West Coast areas of the country.

In the electric and hydroelectric areas, important changes are now underway. The enactment of the Electric Consumers Protection Act in 1986, and its subsequent implementation, have required several extensive rulemaking proceedings that have integrated state procedures into the review of licensing proceedings. The Commission is focusing now on the important relicensing process, with several hundred cases forthcoming in the next few years.

Electric power regulation has been the focus of increased activity reflecting new competitive forces in the industry. The cogeneration program under the Public Utility Regulatory Policies Act and various factors in the electric utility industry have led to greater competition in the generating sector and bulk power markets. Also, various proposed regulatory initiatives would seek to expand the role of direct competition, some through a restructuring of the industry and a shifting of regulatory powers from the states to the Federal government.

Finally, in the oil pipeline area, the Commission has continued to explore new approaches under existing law to reflect the competitive forces clearly at work in the transportation sector of the oil industry. That effort has now reached the stage of formal adjudication in a pending case. This activity has paralleled continued discussion in the Administration and Congress about legislative action to modify the statutory requirements for oil pipeline regulation, in recognition of the existence of those competitive forces.

Throughout the last three years, I have attempted -- with varying degrees of success, I suspect -- to maintain a focus on several fundamental themes, as I committed to do when I appeared before you in July, 1985. Regulatory policies must support the highest possible level of energy security for the United States and the industrialized free world. The regulatory programs must assure a long-term, adequate and reliable supply of energy at the lowest reasonable cost to consumers. Regulated activities and FERC programs must satisfy the letter and spirit of all applicable environmental and public health and safety laws. The regulatory programs must seek to promote and develop a balanced and mixed energy resource base, including energy conservation and renewable energy resources.

I continue to believe that regulatory policies also should be based on the use of competition and market forces in regulated industries, where such use is fully legal and is responsible in the context of American consumers. As you know, much of the debate at the Commission over the past three years has centered on the extent such use is appropriate as a matter of policy and permissible as a matter of law. I remain very sensitive to the fact that the Commission, as an independent regulatory agency created by the Congress, has only those legal authorities delegated to us by Congress. While we must strive to develop innovative regulatory approaches to many current problems, we must not exceed our statutory authority. For me, in the analysis of complex issues, the threshold question of "What is the law, and how must it be applied in concrete factual settings?" should always remain central to FERC's regulatory decisionmaking.

In that regard, I should note that these past three years have heightened my own sensitivity to the critical role of the individual states and their public utility commissions. Any success for Federal regulatory initiatives and programs in the energy industry can only be achieved on the basis of a constructive dialogue and meaningful consultation between Federal and state authorities in energy regulation. The objective of that effort must be to develop a form of partnership based on mutual understanding and respect and leading to maximum harmony in the related Federal and state regulatory programs. In my judgment, Federal preemption of state regulation and Federalization of state programs by the Commission on its own initiative will not support that objective, and generally are offensive as a matter of policy and unacceptable as a matter of law.

As to the future over the next four years at the Commission, many important challenges remain on the agenda. The Commission still has a long way to go in establishing a permanent and stable form of open access transportation, with eventual resolution of the take-or-pay issue, in the natural gas industry. The transition in the industry is well underway and the outline of the result has been developed, but many of the concepts are only in an early stage of implementation. We must move systematically to complete those efforts and restore some certainty in the natural gas regulatory programs. We also must continue to expedite the early availability of new natural gas supply for the Northeast and California, while ensuring an adequate supply and deliverability in the production sector for the additional demand.

The electric power program should proceed on an evolutionary basis to address competitive issues in the generation and transmission sectors. The Commission should eliminate those features of pending proposals that restructure the electric industry and preempt state regulation, while proceeding promptly to address more immediate and important reform of Federal transmission and bulk power regulation. The focus of our activity must ensure increased attention to supply and reliability considerations in the design of regulatory initiatives. The approach also must reflect greater sensitivity to the responsibilities of state authorities in electric power regulation.

The hydroelectric program must continue to build on the initial implementation of ECPA to ensure "equal consideration" of all river basin resources and values, while maintaining a viable future hydroelectric option for the nation. The new relicensing program must be accelerated to provide timely and orderly processing of the flood of applications over the next several years. Finally, the oil pipeline program must continue efforts to develop a more competitive based regulation, in concert with ongoing legislative activities in Congress.

Mr. Chairman, please allow me to conclude on a more personal note. I want to share a recent family experience with the Committee. A week ago, my wife and I took our youngest child, Christina Elizabeth, to her first day of kindergarten at Jamestown Elementary School in Arlington County. You may recall that she was born in July, 1983, on the day the Committee voted 10-9 to report S.1753, the natural gas deregulation bill, without recommendation. At the informal orientation session for the new students and their parents, we were greeted by the fine principal of that school. He began by welcoming the children and parents of the Yorktown High School graduating class of the year 2001.

The principal's remarks and Christy's Class of 2001 reminded me again how close we really are to the dawning of a new century in this country. In many respects, the energy security of the nation and the adequacy of our energy supply to fuel an expanding economy as we begin that new century will be dependent upon decisions made between now and the early 1990s. With the support of this distinguished Committee, I would hope to be confirmed for a second term to be a small part of that decision process. I am confident that the Congress and the new Administration, including the Commission, can provide the American people and the Class of 2001 with the most secure energy future and continued economic opportunity. It would be a great privilege for me to join with you in that effort.

Thank you, Mr. Chairman, and I would be pleased to answer any questions which the Committee may have.

The CHAIRMAN. Thank you very much, Mr. Trabandt. Just one brief comment, and I suspect that most, if not all of the committee feels this way. Go rather slowly on the NOPR's for the electricity, for the IPP's. I personally have not taken a position on those NOPR's other than to say that they should be very carefully, deliberately considered, I suspect it would be well for the two new members who have not had an opportunity to look at those, Mr. Langdon and Betsy Moler, to review them carefully before they are promulgated. I suspect knowing what the Commission votes have been in the past, that that will be of necessity. I take no position one way or the other on the final shape of those regulations again, except to say that I think they should be very carefully considered because I know that the electric industry feels that there are some gaps and omissions, and perhaps some mistakes in the proposed regulation that should be considered before they are finally promulgated. And I know from having talked to some of you that there is no inclination to have a rush to judgment on that. I simply make that comment.

Other than that I am very pleased with this panel and indeed with the whole Federal Energy Regulatory Commission. I suspect and I hope and will do everything I can to see that you are quickly confirmed. I think this will be an outstanding Commission. I think it has got a lot of ability on it and a lot of background and training. I suspect that this has the possibility of being the best or certainly one of the best Commissions we have ever had.

The Federal Energy Regulatory Commission is one of the most important Commissions in the country. You deal with more billions of dollars, you make more policy, you have more real discretion in terms of policy than virtually any judges outside of the Supreme Court, and more than most other Commission members. I think it is, therefore, proper that we have a strong Commission, and I am pleased that this will be such a strong Commission.

Senator McCLURE.

Senator McCLURE. Thank you, Mr. Chairman, I agree with everything you've said in those remarks. I really am impressed with the diversity of background, approach to policy and breadth of experience in the Commissioners, and I very much look forward to working with each of you and the Commission as a whole in the years to come. And I would underscore my conviction that those NOPR's and without reaching any final conclusion, I certainly have this much conclusion about them; that is that they are so far reaching and have proven to be so controversial that I would urge you to regard them as initial steps in the process and not move to final regulations from those submissions, together with comments returned. I suspect another step in the process is both well advised and perhaps necessary.

I am tempted to get into two or three major issues that are relatively parochial to my state or my region of the country, but allow me only to touch two, and one very briefly, although it's perhaps in my mind one of the most important and sensitive for us, and that is the question of states' authority to regulate waters. I know that it is troublesome for you on the Commission. I know that.

The action taken by the Congress of the United States that said in effect there are two co-equal masters over the water, the federal government on one hand and the states on the other, the efforts by our courts to bring some order out of what looks to them like chaos seems to me to pit one against the other, perhaps unnecessarily. There ought to be a way in which the Commission can deal with the question of state water rights without overt federal preemption on every stream in which there is a licensed project. I have no definition for the answer to that question. I can only pose the question at this time and appeal to you to try to understand that to those who come from arid areas of the country, water is life, and we guard it very, very jealously.

I don't like to see us get into the position where the federal government on one hand exerting a national viewpoint overrides the state attempting to look at state interests and state economic and social welfare. There has to be a way to find an answer to that question, and it is sharpening and growing. It isn't at an end. But I will not ask you to try to answer that this morning. It is going to take a long time and with a lot of effort, a lot of tolerance.

Commissioner Stalon, I noticed in your statement in particular you said you had learned something in the process of your service on this Commission, and that was a sensitive regard for state and regional concerns. And this is one of those that I think is very pointed as we get into the question of licensing of hydraulic projects.

But I do want to ask just a couple of questions about the BPA rate oversight because that is an emerging question both in terms of the authority of the Commission and the way in which it will be applied. In 1980 Congress passed the Pacific Northwest Electric Power Planning and Conservation Act. The act was passed following long deliberations and detailed discussions in both the House and the Senate and between the House and Senate in conference. The act redefined the review authority of the Commission regarding BPA rates, and in that act Congress clearly departed from the past pattern of Commission review in favor of a limited oversight role.

Congress withdrew rate design and cost allocation issues from the Commission's review of BPA's firm power rates, and replaced this review with an appellate-type review limited essentially to assuring that BPA's firm power rates first recover BPA's costs and second, repay the U.S. treasury.

You will recall, I'm sure, the discussion that took place at that time about whether or not BPA was adequately recovering from consumers the costs that were necessary to repay the treasury for the obligations of BPA, and that is the background of that review.

For BPA's nonfirm rates, Congress provided additional procedural safeguards to BPA's nonfirm customers, and retained but did not expand the Commission's review authority over nonfirm rates. The trade-off Congress made was to limit the Commission's review authority and to impose on BPA more stringent and complex rate-making provisions as found in section 7(i). Congress' enactment of the Northwest Power Act was thoughtful and deliberate, and Congress knew what it was doing. What should be obvious in the enactment is the clear absence of any transfer of any Federal Power Act standards on either the BPA or rate-making or rules in 7(k)—excuse me—or Commission review.

Recently the Commission has taken some actions that don't seem to be consistent with its statutory authority for review of BPA rates. It seems to me that perhaps one question that is appropriate for me to ask, and I know that Senator Hatfield would ask the question if he were here. Senator Evans shares in that concern from a regional standpoint. And I am groping for the right words in which to phrase the question because I know it is a sensitive one, an important one for you.

Do you share with me the understanding that Congress has specifically defined the Commission's authority to review BPA's rates under the Northwest Power Act and that this authority does not include any review under the Federal Power Act? Mr. Trabandt?

Mr. TRABANDT. Yes, sir. That is my understanding of the act.

Senator MCCLURE. Mr. Stalon?

Mr. STALON. I would agree that the Regional Acts says that for sales within the region none of the standards of the Federal Power Act hold. The issue that we had before us in the order which is now pending rehearing was whether the 7(k) part of the regional act carries such a strong message for sales of surplus power outside the region.

Since there is a reference in the Regional Act there to the standards of the Bonneville Power Act and the Ninth Circuit has interpreted that act to have a different set of standards than those in the Regional Act, what we now have is a legal decision on that matter in the SL-87 filing of BPA. It is now before the FERC on rehearing. I have decided that a thorough review of the legal decision involved in that original decision is necessary, and that thorough legal review is now underway.

Senator MCCLURE. Thank you, Mr. Stalon.

Mr. Langdon.

Mr. LANGDON. Senator McClure, at this moment I've only begun to kind of delve into those issues, and I expect to be overwhelmed by them and at the same time interested by them. At a later date I would like to get back to you and respond to that question.

Senator MCCLURE. Thank you very much. I would like not to take the time of the committee this morning to pursue that matter except to note that it is a matter of extreme sensitivity and concern, and I went into the background of the act just very lightly here, because I think it is a matter of concern to a great many members of this committee, and I know of the people that are involved in the BPA service areas.

I have some questions further with respect to the Northwest Power Act; sales outside the region, some on natural gas open access transportation and a number of other issues. I will submit those for response in writing for the record, and I will not expect terribly long answers because we don't have a terribly long time, but I will forgive you for brevity.

I remember once when I had a law school professor that said make your answers brief, and so I made my answers brief and when I received the grade for the course I was very disappointed. I went in to talk to him about my grade, and he took up the blue book in which I had written the answers and he picked it up. He says it does weigh very much, Mr. McClure. Well, I learned something of the professor if I didn't know anything about his course. In succeeding courses from that professor I wrote at length and said nothing and got much better grades. I hope your answers are brief, but say something. Thank you very much.

The CHAIRMAN. Senator Ford.

Senator FORD. Mr. Chairman, thank you.

The questions that have been asked so far have basically been about decisions that you will make. Let me visit a little bit about the administrative side of FERC and what is going on there. I keep getting reoccurring concerns voiced to me over the backlog of cases that are awaiting Commission decision. And let me ask all of these and we will go Mr. Stalon, Mr. Trabandt and Mr. Langdon, in that order.

Would you all advocate or support procedural requirements calling for Commission decisions within certain times following the completion trial proceedings or certification of contested settlements, certification of uncontested settlements and the filing of rehearing applications?

Mr. Stalon.

Mr. STALON. I worked on a state Commission where we worked with an 11-month deadline from the date of filing to the date of issuance of the Commission order. If we did not meet that deadline, the request of the utility went into effect. It was a very effective way of putting iron in the backbone of Commissioners. It required decisions. It was a trade-off which I liked. It was a trade-off which said that timeliness is more important than accuracy because if you make a mistake, you can do it again quickly. I like that bias. I worked with it for a long time. I think it is great.

However, the federal government's Administrative Procedures Act is quite different. We have bent the other way. We have a bias built into the federal system that accuracy is better than timeliness, and that in my view is not a good bias in a society which is increasing competition in regulated industries.

I think we could in the FERC live with a deadline, but it could not be the kind of deadline that is customary in state commissions. We could not meet such deadlines under the Sunshine Act, under the Administrative Procedures Act, or under the separations of functions rules, that is under what we now define as due process.

I would add, however, that while I am distressed at the long time it takes to make what normally should be fairly routine decisions at the FERC, I would note that the backlog has diminished over recent years. The FERC has been working hard to try to accelerate the process, but there are severe limits under current standards of due process to what we can do to accelerate the process.

Senator FORD. Mr. Trabandt.

Mr. TRABANDT. Senator, I think the idea of deadlines would be fine as a general matter, and I think as Commissioner Stalon said, we are doing better. I have one reservation, and that is in some cases of consequence it is important that the Commission itself have enough time to deliberate, and I would be fearful of any formulation of a deadline approach that might end up with the staff at the direction of the chairman having 11 months and us having five days. And, there would have to be, as Commissioner Stalon has indicated, some balancing of the separation of functions between the full Commission and the staff, such that we would have the opportunity for full deliberation.

Senator **Ford**. I will get into that problem in some of my questions in a minute.

Mr. Langdon.

Mr. **Langdon**. Senator Ford, coming out of the private sector and looking at this prospective opportunity in government, I'm very used to working with deadlines, and I think deadlines are essential to getting things done. The concern I've got is that generally speaking it is more easy for businessmen to sit down and reverse by mutual consent business agreements than it is obviously government in some cases. I think expediting the calendar and getting to a point where the Commission can act effectively and quickly is very, very important to what we can accomplish in our perspective terms.

Generally I support deadlines and the enforcement of those deadlines to the extent that we have an ability to change final decisions in the event that they are found to be in error.

Senator **Ford**. Well, let me add a little something to that question. In the case of settlements where FERC trial staff is the lone opponent to the settlement, would any of you advocate and/or support requiring trial staff to carry the burden of demonstrating to the presiding administrative law judge that its position is not contrary to Commission policy and/or precedent. If that burden is not carried, do you think the settlement should be certified as uncontested?

Mr. Stalon.

Mr. **Stalon**. No, I do not. I am not very respectful of settlements in a regulatory body. All parties are not represented, and it is our task as Commissioners to represent those who are not at the table. Normally those at the table are the regulated firms and the large customers. Those who are not at the table are the dispersed interests, such as the state commissions and the small end users.

I think the Commission has an obligation to review settlements and should rely on settlements only in fairly clear-cut cases and always be free to modify settlements in the name of the public interest when the time comes to do so.

Senator **Ford**. Mr. Trabandt.

Mr. **Trabandt**. Senator, as to your specific question, I would have no opposition to the proposal you have made that required that where the staff is the only opponent to a settlement, in what otherwise would be an uncontested settlement, to demonstrate that their opposition is consistent with Commission policy. In the end, whether it is uncontested or it is contested by the staff, it still under current practice comes to us for a vote. And, we have the opportunity to review the terms of any settlement under any circumstances anyway. And, having the staff demonstrate why it does oppose and how that is consistent could be an improvement.

Senator **Ford**. Mr. Langdon, are you at that point yet? Are you to the point where you can talk about this yet?

Mr. **Langdon**. I am a little bit premature, obviously. I would say generally speaking that I believe in those uncontested cases where the interests of the parties are known to the extent that the final decision is not cast in stone and the Commissioners do have final debate on it that I would be in favor of expediting uncontested cases, settlements.

Senator **Ford**. Well, this question probably should go to Mr. Stalon and Mr. Trabandt, but while Commissioners have an equal vote in all regulatory matters, and Mr. Trabandt said the chairman may hold an issue for 11 months, and you will have five days to make a decision. The chairman has administrative authority over agency affairs. Such authority is made clear in FERC's organizational chart, which has all FERC staff reporting to the chairman. Despite this line authority, there are varying management approaches a chairman can adopt to assure the proper functioning of FERC staff and a decision-making process and to maintain the cooperation and communication of that body.

Now, let me ask you a series of four or five questions as a result of that statement. Do you believe all Commissioners should be free to call on advisory staff, both legal and technical, to advise, counsel and assist Commissioners in their deliberations?

Mr. Stalon.

Mr. **Stalon**. Yes, I do, although I believe it must be granted that the chairman should have some rights to schedule such briefings in order to make efficient use of the staff. The principal problem in the FERC, and I would say it was the principal problem that was arising in Illinois as I left because of the tightening up of Government in Sunshine and the Administrative Procedures Act, is assembling and synthesizing the expertise of the staff and getting that information to the Commissioners. The FERC has an elaborate staff and an elaborate division of labor, but it is very short on mechanisms for bringing that knowledge to the minds of the decision makers at the time the decision has to be made.

Senator **Ford**. Mr. Trabandt.

Mr. **Trabandt**. Senator, I think you have touched on a very important and sensitive problem that we do have at the commission. The Department of Energy Organization Act does provide the chairman with responsibility over management and administration, but I don't think that the Congress ever contemplated that that would mean that there would be an interruption in the flow of communication between the Commission as a collegial body, the individual Commissioners, and the staff. And, in some respects we have that communication problem today, and I would hope that there will be improvement of that over time.

Senator **Ford**. Do you believe all Commissioners should be free to call in advisory staff both legal and technical to share their work product at any time called for by the Commissioners?

Mr. Stalon.

Mr. **Stalon**. I would like to say yes, although I admit that there is a possibility with five people making demands on a Commission staff that some constraints may have to be granted. I do not, however, like the constraints I am now living under. I think they are too tight, but I do not believe we can allow each Commissioner unlimited freedom to marshal whatever part of the staff he wants to brief him at his convenience. I believe if we did that, the Commission would not work well. But we do need great improvement over what we are doing now.

Senator **Ford**. Mr. Trabandt.

Mr. **Trabandt**. I concur with Commissioner Stalon in his assessment, Senator, but I think the system now needs to have balance restored. Currently my understanding is my staff cannot get an answer to any question without the prior approval of the chairman, and I think that is unfortunate.

Senator **Ford**. Well, do you believe all Commissioners should be free to call on the advisory staff both legal and technical to assist in the drafting of various memoranda and alternative orders for presentation to your colleagues for consideration?

Mr. Stalon.

Mr. **Stalon**. As much as I would like to say yes, again I have to make the qualification I gave earlier. I do believe I ought to be free to call on the staff to help me assemble concurrences, dissents, to draft proposed alternative orders to be presented to my fellow Commissioners. I do, however, grant the necessity of having somebody coordinating that activity. It's hard to have five people running a staff, but I think there has got to be more cooperation of the staff with the Commissioners and help for the Commissioners by the staff. Consequently, I don't believe I could answer a blanket yes to that as much as I would like to.

Senator **Ford**. Mr. Trabandt.

Mr. **Trabandt**. Again, Senator, I concur with Commissioner Stalon. But if I may just try to focus the dilemma I think that we face, the question is not so much work product per se and the development of it. I would never have any objection to there being a review process for work product. But, where I do object is where there is factual information, analysis and legal information that is available to the staff, but essentially is not made available to the Commission in the decision-making process. I think both Commissioner Stalon and I would much prefer to have options presented to us when we seek them and have the Commission make a decision as to which is the preferred option in the public interest, as we see it.

Currently, we are presented with a draft order and the general instructions to the staff are to defend the order. And, as a result, we don't have as reasoned a decision-making process as I think Congress intended. And I think also that the intent of Congress in maintaining the collegial body is chilled as a result, and my commendation to my staff for what they've done over the past three years in my prepared remarks is recognition of how hard they have to work in order to provide us with independent counsel and advice. So, I think there is some room for improvement in the process.

Senator **Ford**. What is wrong with the chairman meeting frequently with the Commissioners to apprise them of or seek their advice on procedural or substantial decision-making that will be contemplated by the chairman? Is there anything wrong with that, Mr. Trabandt?

Mr. **Trabandt**. No, sir, I think it should be encouraged.

Senator **Ford**. It should be encouraged?

Mr. **Trabandt**. Yes, sir.

Senator **Ford**. Is there anything wrong under the law, Sunshine or whatever it might be, in visiting with other Commissioners?

Mr. **Trabandt**. Well, I think if one wants to take a restrictive view of the collegial process and wants to have a chilling effect on communication, one can use the government in the Sunshine Act to advantage in that regard.

But, as I read the Sunshine Act, what is prohibited is the majority of the Commission visiting together as to the merits of the decision in the pending matter. But, insofar as the ability of the Commission to meet together to discuss general scheduling and overall objectives and directions, I don't believe the Sunshine Act constrains that. And I don't believe when this committee drafted the DOE Organization Act that your decision to keep a collegial body, rather than adopt a single administrator as some had proposed, intended that result.

I don't believe that you envisioned that the Sunshine Act or any other mechanism would prevent there from being a very healthy discussion among the Commissioners.

Senator **Ford**. Mr. Stalon.

Mr. **Stalon**. I agree with everything that Commissioner Trabandt has said.

Senator **Ford**. Whoever goes first, the other one agrees with the other one, so I thought I would give you a chance to agree with Mr. Trabandt on this one.

Mr. **Stalon**. I have argued publicly several times that the interpretation of the Sunshine Act under which we are living is far more restrictive than my reading and the readings given to me by my legal assistants. If it were my reading alone, I suppose economists have no right to interpret the law, but the legal assistants who work for me agree with my interpretation—I think we are unduly strict, far too strict, and the consequence has been the Commission does not have an effective way for Commissioners to participate in either scheduling or policy making. The Commissioners increasingly are responding to the initiatives of others.

Senator **Ford**. Let me ask you this, then, Mr. Stalon and Mr. Trabandt. Do you believe all Commissioners should have input in determining what items are to be included on a public meeting agenda or should that be a prerogative only of the chairman.

Mr. **Stalon**. I believe that has to be the prerogative of the Commission as a whole. I think it is not necessary to grant a single Commissioner the right to put something on the agenda, although I would prefer that, but clearly a Commissioner that can get two other votes for an item's consideration must have the right to have it placed on the agenda. And as far as I know, we do that.

Senator **Ford**. You do that now?

Mr. **Stalon**. As far as I know. That has not been tested recently as far as I can recall.

Senator **Ford**. Mr. Trabandt.

Mr. **Trabandt**. Senator, I think that the Commission as a group should be involved in the scheduling decisions. And, when I first got to the Commission, there was the opportunity for that to occur both with general rule makings and with major cases. That is not the case today, however.

Senator **Ford**. Thank you, Mr. Chairman.

The **Chairman**. Senator Domenici.

Senator **Domenici**. Thank you very much, Mr. Chairman.

Mr. Trabandt, as you are aware the pipeline take-or-pay data was filed with the Commission last October. I would want to know whether you feel that the data that is one year old is still relevant. How do you feel about using that information in the formulation of the final order 500.

And I wonder if you have any thoughts about the challenge that might be made to that. I do not know whether it is right or not, but I think we have to get an order that is sustained so that the industry will know that something certain has been done. I think the uncertainty is deaf out there. Could you give us your thoughts on that.

Mr. TRABANDT. Yes, Senator Domenici. I am very concerned that the take-or-pay data which we obtained from the survey last year is out of date. I have not seen the survey data, other than in a draft aggregated form, so I am not in a position to know on a pipeline specifically this is what the situation may be.

The data that was filed in 1987 was current as of the end of 1986, and it has been apparently validated as to its accuracy for that time frame. But I think that we would be in an untenable legal position to make a decision, either later this year or at some point next year, on data that was reflecting the situation in 1986.

As you well know, there has been substantial renegotiation of take-or-pay contracts since 1986. I think both INGA and NGSA have indicated that there are literally billions of dollars of contracts that have been renegotiated. And, I think it would be very important for us to have an up-to-date and systematic survey of what those facts are to defend whatever result, as well as a tool in our own decision making.

Senator DOMENICI. Well, let me just ask the new Commissioner, Mr. Langdon, I know that you are familiar with producer problems, perhaps somewhat more than other members of the Commission. I think it is good that you are and that you are very familiar with their problems. I did not mean by my statement that I favor what is going to be in the order 500. I don't know whether I do or not. But I think the industry must get an answer to take-or-pay through the regulatory body, and there has to be a reasonable chance that it would be sustained because we have got to get rid of the uncertainty. We didn't want to do it, so we left it in your lap. We probably wouldn't know how to do it, to fix the problem of take-or-pay in the accumulation of the debt out there.

Do you have a thought as to whether it is important to get this done quickly and in a manner that adds certainty to the marketplace?

Mr. LANGDON. I absolutely agree that it has been a continued source of concern. I know from an industry perspective of certain problems in terms of dealing with the contractual obligations between parties.

I also agree with Commissioner Trabandt in that I know in particular in the last two years and certainly more in the last year than the last two years I would say, a number of take-or-pay problems have been resolved independently between parties, and to the extent that we can use the most current information in terms of trying to evaluate how effective order 500 has been in helping resolve those problems, we should be doing that.

Senator **Domenici**. By coincidence to all three of you I suggest that today is a very interesting day in the Senate because we are probably going to recommend the three of you and on the floor we are going to recommend the Canadian free trade agreement for adoption by the United States Senate for ratification, and I want to make a couple points about it while I have your ear in public.

I don't believe that the mere fact that the Canadian free trade agreement offers to the United States some kind of a shield and protection both as to price and quantity in the event of an energy crisis, I see nothing in that treaty that indicates that Canadian natural gas ought to be given favor by your Commission or anyone over domestic production.

And I am of the opinion that the natural gas industry, in particular the independents in the United States, may not be given equal opportunity supplier status by some of the Commission's ruling in the past, and if what I am reading about continues, I am not at all sure that equal opportunity supplier quality is going to attach itself to domestic production, especially as it deals with California.

Let me suggest, we have focused a great deal of attention on our dependence on crude oil. Mr. Chairman, I would like to put in the record a chart which our staff has supplied to me that comes from Canada with reference to natural gas, and I would submit to you that if this data from Canada is correct, they are exporting twice as much natural gas in April of this year as they did in 1987, and the price is plummeting as per this bottom chart.

[The material referred to follows:]

NATURAL GAS

(Imperial Units & $US)

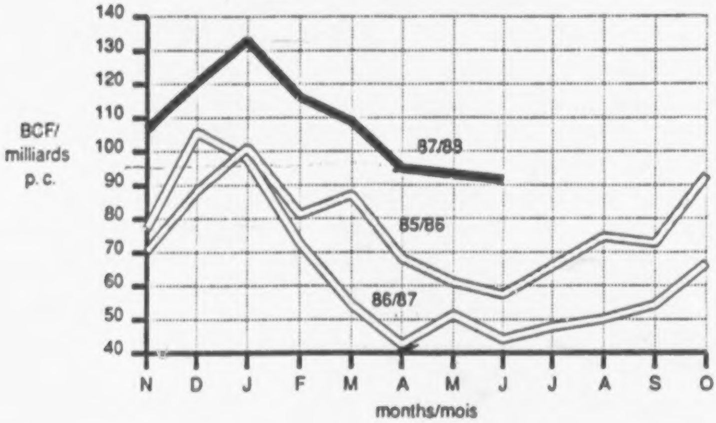
GAZ NATUREL

(Unités impériales & $US)

GR 01-US

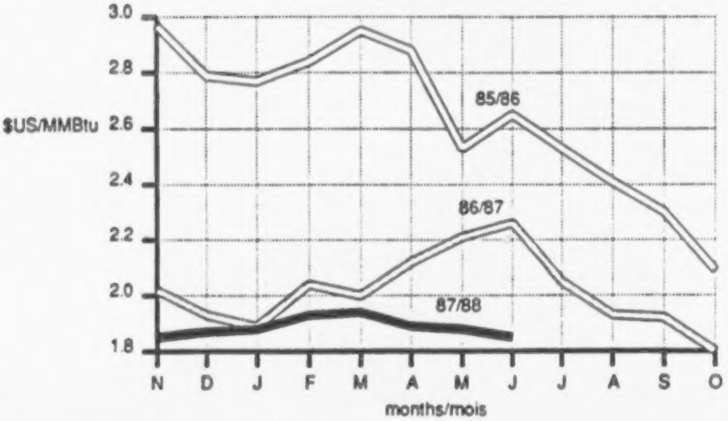
NET EXPORT VOLUMES

VOLUMES D'EXPORTATION NETS



AVG. EXPORT PRICE

PRIX MOYEN D'EXPORTATION



National Energy Board
Gas and Oil Branch
Regulatory Surveillance Div.: GF/AR

Office national de l'énergie
Direction du gaz et du pétrole
Division de la surveillance: GF/AR

Senator DOMENICI. Now, that is fine that they are exporting more and more natural gas, but I think it is imperative that this Commission see to it that our natural gas production not be prejudiced with reference to the delivery of natural gas, particularly to California.

So, I want to ask a general question first of you, Mr. Trabandt. Do you feel that FERC has done enough through its policies to assure that domestic production has a chance to be an equal opportunity supplier for markets in the United States, in particular for those in California?

Mr. TRABANDT. Senator, I think that the Commission did take one major step of which you are aware in Opinion No. 256 to try to make sure that the pricing of natural gas from Canada was on an equal footing with the pricing of natural gas produced in the United States.

I am aware that we have a potentially serious problem in the West Coast markets, as a result of the situation out there and the pipeline supply from the Southwest.

I also am somewhat concerned that the flow of events with regard to the additional supply of gas to the Northeast appears to be taking a turn which may lead to all Canadian supplies, rather than any major domestic supply.

I think that perhaps we need a stronger focus on the ability of our American producers not only to compete, but maintain a solid footing in the market. And, I guess as opposed to free trade, I would try to couch it in terms of fair trade and competitive trade. And where we become aware that that is not the situation, I think we should remedy it.

Senator DOMENICI. Well, I want to say to all three of you I believe that there are some decisions either made or in the process of being made with reference to trying to make the pipelines more competitive that just will not work where in fact they have a monopoly. You try to make it competitive in a state like New Mexico, and for some of the natural gas out of the Permian Basin when there is only one pipeline taking it to Texas or two and you go back and do some unbundling, gathering costs are attached so that you can try to make it competitive and I would like you to know that the burden falls on the producer.

And I think you ought to ask the effect on the producer when you do that because just a couple pennies difference ends up with them not making a profit and working in the other direction a couple pennies difference lets the Canadians supply it instead of us.

And I think it is getting to be very critical in a number of areas in the United States. Frankly my state is one of the worst because we all know of California's dependence, and their absolute gigantic imposition on this market, almost in a willy-nilly manner, that Commission changes its rules all the time, and they say jump, and everyone jumps, the Commission in California, because it is such a big user.

I submit to you that due regard for state Commissions is in order, but due regard for the producers of natural gas is in order also, especially since we kept them alive for so many years with natural gas from our part of the country. I don't expect you to give me any observations on that. That is just my particular peeve.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Nickles.

Senator NICKLES. Mr. Chairman, thank you, and to the Commissioners and Mr. Langdon, I just have a couple of quick comments.

I might ask Mr. Trabandt or Mr. Stalon, either one, are most of the pipelines now operating under open access?

Mr. TRABANDT. Yes, sir.

Senator NICKLES. Are there a few exceptions to that?

Mr. TRABANDT. As I recall, there are only three or four major pipelines which are not open at this point.

Senator NICKLES. Are they in the process of becoming open?

Mr. STALON. Some of those that are not completely open are open for 311 transportation, but they have not yet accepted a blanket certificate.

Senator NICKLES. Is that the grandfather?

Mr. STALON. No, 311 is the provision of the Natural Gas Policy Act which allows pipelines to carry gas under rules the Commission lays down, but it is really a grant of power by the Congress directly to the pipelines to carry gas.

Many pipelines have chosen that route and have not yet accepted a blanket certificate under section 7(c) of the Natural Gas Act.

There was in the trade press the other day a listing of 34 pipelines which include not only the large ones that Commissioner Trabandt mentioned, but some of the smaller ones as well, but still 34 of the largest.

Senator NICKLES. Thirty-four that are open?

Mr. STALON. Thirty-four that they listed, only 15 of those have unconditionally adopted a blanket certificate, although another one has accepted a blanket certificate since that was published. There are another seven or eight that have adopted 311 transportation on a nondiscriminatory basis that have not yet adopted a blanket certificate.

Among those that are doing neither, some are negotiating with their customers and they may become open access transporters sometime in the near future.

Senator NICKLES. Are they negotiating with their customers or are they negotiating with FERC as far as some rates are concerned?

Mr. STALON. What they say in the press, and that is my principal source of knowledge, is that they are negotiating with their customers. If they are negotiating with the FERC, they are not negotiating with me.

Senator NICKLES. Don't they have those, some pending cases, I guess, that requires approval by FERC in some cases?

Mr. STALON. I suspect there are several that have not yet come to the ninth floor.

Senator NICKLES. Could you bring me up to date on where we stand with rule 500. And are we on 500 (c) or (d) or (e)?

Mr. STALON. I have forgotten. I think it is 500(e) which ended the petitions for rehearing of the interim rule.

The Commission has not had presented to it, and as far as I know there is no schedule for presenting, a final rule in Order 500.

Senator NICKLES. So, we are still operating under interim rule?

Mr. STALON. Yes, sir.

Senator NICKLES. And you say as far as you know, it is not anticipated to have a final rule?

Mr. STALON. No. As far as I know, there is no schedule for presenting a final rule. I presume at some time a final rule will be presented.

Senator NICKLES. Mr. Trabandt, do you have anything to add?

Mr. TRABANDT. I would only add that the chairman has stated publicly on a number of occasions that it would be her intention to schedule action on a final rule before the end of this calendar year. But, we at the Commission level have not seen any of the preparations for that, nor to the best of my knowledge have we had any discussions as to what form that might take.

Senator NICKLES. According to staff, Order 500 was originally issued in August of 1987. And I think you heard Senator Domenici and others mention the chaos, or I will mention the chaos that 500 has brought in the industry.

I have raised that on a couple of occasions with you and other Commissioners, particularly the crediting mechanism, cross-crediting mechanism.

Also it was brought up, I think by Senator Domenici today, the take-or-pay situation, which I believe he mentioned, the latest data that you have on take-or-pay goes back to 1986? Is that correct?

Mr. STALON. I think there was a little bit of 1987 data in this study, but the summary we received focused on 1986 data because that was a full calendar year and that was the last certified results we had.

There was some 1987 data in it, but it was not codified. The study also was presented as an incomplete study; it was a preliminary study. That is all I have seen.

Senator NICKLES. Both Mr. Trabandt and Mr. Langdon gave their response that they felt like we needed to use some more up-to-date data. Correct me if I am paraphrasing that incorrectly. Mr. Stalon, would you agree with that?

Mr. STALON. Well, one can never disagree with the desirability of having up-to-date data, but an agency that normally takes two and three and four years to process rate cases is accustomed to making decisions on out-of-date data.

And my suspicion is, given the time it takes us to process anything, we will always make decisions on out-of-date data. Our procedures are such that by the time you process it, grind it through the organization and use it, it is out-of-date.

Senator NICKLES. Let me ask you a question. Do you feel like, Mr. Stalon, that the take-or-pay problems have been alleviated or increased in the last two years?

Mr. STALON. I do not know, sir. I can only rely on trade press reports and what we see in the trade press is a continuation of the battle we saw before we started this study, with NGSA making one assertion and INGAA making another.

We have conflicting information being presented to us. I do not know the facts or the circumstances.

Senator NICKLES. Mr. Trabandt, do you have a comment?

Mr. TRABANDT. Senator Nickles and Senator Ford, I will disagree with Commissioner Stalon at this point.

I believe we could have a quick survey update in a matter of perhaps a month or two, because the pipelines had to gear up to do the survey in 1987. They have the information and they are using it in their own analysis, both on an individual company basis and in their trade associations.

So I think we could do a quick update and find out what the facts are now, so that we could make our decisions with a reasonable database.

I also would point out, Senator, that we did have hearings in April at which we had participation from individual pipelines and individual producers, as well as their trade associations.

INGAA and NGSA presented to the Commission what I found to be dramatically different survey results from their respective industries, and we were faced, or as a factual matter we are still faced with a dilemma of which world is it?

The world of ballooning take-or-pay exposure, notwithstanding the actions that we took on Order 500, which is claimed by the pipeline industry? Or a world where there has been largely successful resolution of take-or-pay contracts with very little buildup of new take-or-pay as claimed by the producers?

And it seems to me that it is very important that we know which it is—or somewhere in between—what is an accurate assessment of what the current situation, which largely would be the result of private renegotiation and somewhat a result of the actions like crediting and Order 500.

We also are getting an indication, somewhat on a pipeline-specific basis, when they file for direct billing of the take-or-pay for pass-through to their customers. And I think the latest rack up of those filings is that we have had somewhere close to $3.5 billion filed with us of take-or-pay payments made from pipelines to producers to resolve perhaps in the vicinity of $17 billion of outstanding exposure.

And, those filings come in the form of individual cases where we have to implement Order 500. So that our anecdotal information would suggest that the resolution of take-or-pay is proceeding apace, and that we have made great progress over the past two years with regard to past take-or-pay.

I think the real question is whether or not there has continued to be a buildup of new exposure notwithstanding all of that. And, I think that is the area where a survey would be very helpful for us.

Senator NICKLES. Mr. Trabandt, let me just say I would concur with that, and I really do not know why a quick survey, both of INGA and of NGSA members, could not be taken and taken fairly promptly.

And I also understand that the differences in numbers that you mention in your April hearings that we have had, as the Chairman is well aware of, before this Committee, we will get astronomical figures from the pipelines and we are working it out, and give us a little time from the producers.

A lot of that difference being, in my opinion would be that the pipelines always use the total amount of exposure, when in most cases those are settled at considerably less. But I do hope that you use more up-to-date data, and I would think if enough calls or surveys would be made with the major pipelines and major producers, that that would help give you a better foundation to be making the decisions.

And I would like to see 500 finalized, but I want to see in which you are going to finalize it first.

Senator FORD. I apologize. Is not the requirement when you publish your annual financial statement that you will find that liability involved in that financial statement? Is that correct?

Mr. STALON. What we have seen is the numbers they file in the annual statement to their stockholders are not the same numbers they file in their annual statements to the SEC, and——

Senator FORD. Well, is one higher to you and less to the stockholder?

Mr. STALON. They file a still different one with us in their Form Two. That is a third one.

And it is because these numbers are not at all precise. It is not at all clear when a liability——

Senator FORD. It looked like if they are wrong they ought to be consistently wrong.

Mr. STALON. There seems to be a large element of judgment. Apparently the accounting profession is also having a difficult time deciding——

Senator FORD. You are being nice, Mr. Stalon, to a group of people that every time a financial statement is filed that amount is included.

And I apologize, Don, for getting into this. But it seems like to me you could take one or the other, if the figures are different, you can take the two and split the difference and you come pretty close.

I have seen take-or-pay, a fellow says take all we got and he says, we will take it, you know, and that is the end of the company.

Senator NICKLES. You could easily get into a situation, if you had to put the total exposure where in a couple of pipeline cases I am familiar with, that it would exceed the total assets of the pipeline.

But in reality, most of those cases are being settled at what, 15 percent or something in that neighborhood of that exposure? So it might be a little draconian to put that type of amount out.

Mr. Stalon, one final question, you have been involved, as the other Commissioners have, with the NOPRs dealing with electricity. Where do we stand on those? Are we expecting a rule this year, early next year, or what?

Mr. STALON. Again, I do not control the agenda of the Commission, so I cannot say when something is likely to appear on the Commission agenda.

It is a large record. I am still working on the record. I have not mastered the record yet. We will have two new Commissioners who have had no chance to start mastering the record yet.

My general view in this process is that quality is more important than quantity, and we need not be in any hurry on this process. We will have a Commission with a long tenure facing it, assuming we get through the Senate. So I see no reason for rush. The issue is very important, but I do not control the agenda.

Senator NICKLES. Is your guess that we are going to be looking at it or the Commission will be looking at a final rule early next year?

Mr. Stalon. I would prefer not to guess at all.

Senator Nickles. Mr. Trabandt, any speculation?

Mr. Trabandt. Senator, the reply comments are just coming in now on a 15,000-page record, which is under review.

I would—I guess my own position is well-known. I think the Commission made a mistake in reducing these proposals to notices of proposed rulemaking rather than notices of inquiry in the first instance.

And I think that the key decision, the dilemma for the proponents of the proposals, is that the record largely demonstrates that there is not any broad support for the proposals in the current form.

And I think the proposals would have to be significantly reshaped, and perhaps reproposed before such time as they got to be rules which would be reflective of the comments, which are largely negative.

Having said that, though, I think that there still is a disposition within the management to issue final rules as early as possible, possibly after the arrival of our new colleagues.

Senator Nickles. In your opinion, should the Commission proceed with the first three NOPRs before the electricity transmission NOPR is issued?

Mr. Trabandt. No, sir. I think we ought to have a good sense of what we want to do with transmission policy as a general manner, and then we ought to try to integrate that sense with the other proposals. It is one electricity system, and I think it is important to understand what you want to do on the transmission side.

I also think that much of the proposal in all source competitive bidding, and in IPPs, Independent Power Producers, is clearly intended to Federalize the regulation of electric policy in the country, and was also clearly intended to restructure the industry.

And, I think those features of the rules should be abandoned at this point. And, we ought to be looking at precisely what, if anything, needs to be done on the generation side and integrate that, at least analytically, into some responsible approach to the system in general. And I do not think we can do that until we have a better understanding of the transmission question.

Senator Nickles. Mr. Stalon?

Mr. Stalon. I think I must disagree almost emphatically with the characterization offered by Commissioner Trabandt as to the total restructuring of the industry, and the absolute supremacy of dealing with the transmission issues first.

I think there are quite a few things that can be done while we proceed apace, primarily with transmission pricing. The access issue can be dealt with in very limited forms, I believe.

Pricing, I think, is very important. But I do not see that everything we are doing depends on solving those problems first.

Senator Nickles. So you would be in favor of trying to finalize action on the first three NOPRs before going into final action on transportation?

Mr. Stalon. No, I would not word it that way. I would say there are elements in the first three NOPRs that I think can be taken out.

Because we issued three NOPRs does not mean we have to issue three rulemakings. If we issued three NOPRs we could issue 12 rulemakings, taking them a little bit at a time, and taking out the items that should not be acted on immediately or at all.

The issue, as I said earlier, is being able to defend, justify, and demonstrate that we understand precisely what we are doing. It is not the magnitude of the step that is important, it is the step and its defensibility.

Senator NICKLES. Most of the hearings that we had, and Mr. Chairman, this will be my last question, but when we touched on this several months ago, most of the comments that we received, or a lot of the comments that we received, were negative.

Has that been the response on the NOPRs, dealing with electricity before the Commission?

Mr. STALON. It is a little hard for me to characterize them briefly. I would say the utility industry is divided. The majority, I think, have been negative.

State Commissions are divided. The overwhelming majority have been negative. I think most of the end-users, I am sorry, the industrial end-users I think have been positive. Co-generators, potential IPPs—independent power producers—have been positive. Crudely, that is my summary.

Senator NICKLES. Thank you, Mr. Chairman.

The CHAIRMAN. All right. Thank you very much, gentlemen. Questions for the record should be submitted to Nancy Blush by 5:00 p.m. today.

We expect to have our final markup in this Committee on Thursday at 9:30 a.m. The first item of business will be to vote out the Commission nominees.

Senator FORD. Mr. Chairman, I have a question for each of the three that I would like to have answered. I could have asked them today and gotten an answer, but if I could have an answer before we vote on them, 9:30 Thursday.

The CHAIRMAN. Surely.

Senator MCCLURE. Could I make one comment? I think it has been clear from the questions and responses that it is the reality of some difficulty of the management of the Commission.

I am very hopeful that with a Senate action that I confidently expect will be the confirmation of five Commissioners, so that we have a known composition of the Commission for a known future, that there will be the incentive as well as the new possibility of forging a better structural relationship inside the Commission between the Chairman and the staff, the Chairman and the other members, and the other members and the staff.

Because it seems to me very plain that unless something is done to improve that management structure within the Commission, the Congress is going to be asked to take some steps to make certain that you gentlemen sitting on the Commission are real participants in the process in a much more direct way than is apparent from the questions and answers today.

And I do not believe that we want to get into that. And I do not think that it is in the interests of the Commission that we should do that.

I am hopeful that if we take this step, which the Administration has now made possible, that the submission of five Commissioners and nominations, and if we confirmed them en bloc, which I hope we will do, that then there is both the opportunity and the incentive for the Commission members, all of the Commission members, to be able to participate in working that new balance that you refer to, Mr. Stalon, the balance between the desire of individual Commissioners and the necessity for a management authority, so that the Commission can function fully and openly. Thank you very much, Mr. Chairman.

The **Chairman**. Thank you, Senator McClure. Those are very good comments, with which I concur. I think I heard Senator Ford say he concurred in that as well.

We are adjourned. Thank you.

[Whereupon, at 10:55 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Informational Statement of the Nominees

UNITED STATES SENATE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: LANGDON (LAST) JERRY (FIRST) JAY (OTHER)

Position to which nominated: FEDERAL ENERGY REGULATORY COMMITTEE **Date of nomination:** SEPTEMBER 12, 198

Date of birth: 31 AUGUST 1951 (DAY) (MONTH) (YEAR) **Place of birth:** MIDLAND, TEXAS

Marital status: MARRIED **Full name of spouse:** MARY (BASS) LANGDON

Name and ages of children

TRAVIS HUTCHESON LANGDON	9 years
LAUREN ELIZABETH LANGDON	7 years
JACK STEADMAN LANGDON	1 year

Education:

Institution	Dates attended	Degrees received	Dates of degrees
THE UNIVERSITY OF TEXAS	1970 - 1975	BACHELOR OF JOURNALISM	1975

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

* 1981 - Present--Self employed, Midland, TX., petroleum consultant to approximately 30 oil & gas related companies

* 1980 - 1981--W. Wilson Corporation, Midland, TX., manager of natural gas operations, responsible for gas gathering systems operations

* 1978 - 1980--Delhi Gas Pipeline Corp., Midland, TX.,West Texas manager of gas supply, coordinator of gas purchas

Employment record—Continued

* 1975 - 1978--Houston Natural Gas Corp. (now Enron), Houston, TX., Gas Sales Representative, Gas Purchase Representative, analyst Coal Slurry Pipeline project

* 1975--Gilliam Investments, Houston, TX., investment management of commercial real estate brokerage company

Military service: **Describe any military service not listed above, including dates, rank, and type of discharge.**

NONE

Honors and awards: **List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.**

University of Texas, School of Communications,

Dean's List Honor Roll, 1974-75

Memberships: **List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

Organization	Dates	Office held (if any)
Natural Gas Society Permian Basin	1978 - Present	past President
Natural Gas Society of Houston	1975 - 1979	past Chairman
Permian Basin Petroleum Association	1981 - Present	Member
American Association of Petroleum Landmen	1981 - Present	Member
Texas Independent Producers & Royalty	1987 - Present	Member
Natural Gas Producers Association	1988 - Present	Steering Committee

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

NONE

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

YES

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

NO

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

NO

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

YES

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

Not applicable

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Although no formal agreements have been made, I plan to attempt to negotiate a sale of my consulting business through a single cash payment if permitted by law.

3. Are you currently a party to any legal action? If so, describe its nature and status.

Yes. Please see "Attachment A".

4. Have you ever declared bankruptcy? If so, describe the circumstances.

NO.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

YES.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

NO.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

See "Attachment B".

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

NONE.

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

NONE.

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes; although I am aware of the conflict of interest laws and regulations, I have a great deal more to understand relative to the nuances of the law.

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

See "Attachment C".

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I will recuse myself from any official activity involving all parties with whom the conflict of interest may exist in the event I am confirmed.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

NO.

AFFIDAVIT

I, Jerry J. Langdon) ss being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

(Signature of Nominee)

Subscribed and sworn to before me this 14 day of Sept., 1988

Karen M. Grebbs
Notary Public

My Commission Expires March 31, 1990

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1987—67-074

"ATTACHMENT A"

RE: Adelante Petroleum Co.
et al v. WTC Fall 1980
LTD. et al, No. B-31,
199, 238th Judicial
District Court, Midland
County, Texas

The above suit was filed in July, 1982, by Adelante Petroleum Co. and various other lessees under an oil and gas lease in Crockett County, Texas. The plaintiffs had assigned their lease to Defendant, Mark Wiggins, in 1980, retaining an overriding royalty interest. Wiggins then assigned his interest to certain other defendants in the case, not including Texas Intra-Mark Gas Company. Plaintiffs allege that, by virtue of a series of self-dealing transactions among the Defendants, Plaintiffs were defrauded out of approximately twenty percent of the royalties to which they were entitled. Plaintiffs included Texas Intra-Mark Gas Company, which provided pipeline management services to one of the other defendants, as a defendant in this suit.

No specific allegations of fraud or other misconduct have ever been made against Texas Intra-Mark Gas Company, any of its officers or directors. I have been orally advised by Mr. Rex Rowland, president of Adelante Petroleum Co., on at least one occasion that the plaintiffs do not feel that Texas Intra-Mark was guilty of any wrongdoing and that Texas Intra-Mark was included in the suit merely to establish venue in Midland County, Texas.

Please call Mr. Harris E. Kerr, my attorney at (915) 682-9972 if you have any questions regarding the case.

"ATTACHMENT B"

Listing of ALL investments owned by Jerry J. Langdon or immediate family members.

A.) STOCKS AND SECURITIES OWNED BY JERRY J. LANGDON

SHARES	STOCK OR SECURITY
1000	Texas Intra-Mark Gas Company, Inc.*

B.) STOCKS AND SECURITIES OWNED BY MARY B. LANGDON (SPOUSE)

SHARES	STOCK OR SECURITY
18	American Information Technologies
62	American Telephone & Telegraph
16	Arkla Inc.
63	Beneficial Corporation
50	Central & Southwest Corporation
208	Exxon Corporation
110	First RepublicBank Corporation
3	First RepublicBank CI-A (referred)
75	Kraft Inc. New
37	Public Service Enterprise Group
102	Southwestern Bell Corporation
31	Tenneco, Inc.
75	Texaco, Inc.
5	DuPont, Inc.
172	Commerce Income Shares
173	Massachusetts Investors Trust

(continued...)

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*Texas Intra-Mark Gas Company, Inc. is my privately owned Sub-chapter S Corporation from which I conduct my petroleum consulting business.

C.) MINERALS AND FEE OWNED BY MARY B. LANGDON (SPOUSE)

*Valuations based on estate tax values September 1987 reduced to the 1/8th interest of Mary B. Langdon. Status unchanged.

NORTH DAKOTA	
Nonproducing Minerals	$ 145.63
Producing Minerals	$5,199.25
Nonproducing Coal Minerals	$ 6.25
Nonproducing Fee	$ 10.63
MONTANA	
Nonproducing Minerals	$ .13
Nonproducing Fee	$ .13
TEXAS	
Nonproducing Minerals	$ 131.25
SASKATCHEWAN, CANADA	
Producing Minerals	$ 873.13
Nonproducing Fee	$ 1.63
TOTAL VALUE	$6,368.03

D.) STOCKS AND SECURITIES OWNED BY DEPENDENT CHILDREN

SHARES	STOCK OR SECURITY
1078	American Capital Comstock

E.) BONDS OWNED BY DEPENDENT CHILDREN

VALUE	BOND
$9,864.18	Spring Branch Texas Independent School District Matures February 1, 1994.

"ATTACHMENT C"

Response to potential conflicts of interest - Question 5.

To the extent the White House, the Office of Government Ethics, the Federal Energy Regulatory Commission, this Committee or any other government agency directs that any of the investments listed on "Attachment B", hereof constitutes a conflict of interest or the potential of same, I will divest myself of such investment immediately upon confirmation. With respect to any other responses arising from this questionnaire and/or the confirmation process, I will recuse myself from official activities involving parties with whom I may have a conflict of interest or the potential of same, as required by law.

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. 3209-0001

Reporting Status *(Check Appropriate Box)* ☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Filer		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination *(Mo., Day, Yr.)*	Termination Date *(If Applicable)* *(Month, Day, Year)*
Reporting Individual's Name	Last Name Langdon	First Name and Middle Initial Jerry J.			
Position for Which Filing	Title of Position Commissioner	Department or Agency *(If Applicable)* Federal Energy Regulatory Commission			
Location of Present Office	Address *(Number, Street, City, State and ZIP Code)* 300 N. Marienfeld, Suite 200 Midland, TX 79701	Telephone No. *(Include Area Code)* (915)686-0105			
Position(s) Held With the Federal Government During the Preceding 12 Months *(If Not Same as Above)*	Title of Position(s) and Date(s) Held None				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination Energy & Natural Resources	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No			
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual	Date *(Month, Day, Year)* August 31, 1988			
Other Review (If desired by agency)	Signature of Other Reviewer	Date *(Month, Day, Year)*			
Agency Ethics Official's Opinion The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official	Date *(Month, Day, Year)*			
Office of Government Ethics Use Only	Signature	Date *(Month, Day, Year)*			

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for Income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if comments are continued on the reverse side) ☐

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SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. [illegible]

Reporting Individual's Name	Assets and Income	Page Number	2	Schedule A
Jerry J. Langdon				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000? ▼

BLOCK A Assets & Income Sources			BLOCK B Valuation of Assets							BLOCK C Income																	BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐			Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC			None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
	Examples	X Y Z Common				x				x									x								x	
		Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
	1	1000 Common Texas Intra-Mark Gas Co	x													S-Chapter Income						x			$59,196			
S	2	18 Shares AST Common Amer. Info. Technologies		x						x								x										
S	3	62 Shares T Common American Tel & Teleg Co		x						x								x										
S	4	16 Shares AGL Common ARKLA Inc.	x							x							x											
S	5	63 Shares BNL Common Beneficial Corp.		x						x								x										
S	6	50 Shares CSR Common Central & Southwest Corp		x						x								x										
S	7	208 Shares XON Common EXXON Corp.			x					x								x										
S	8	110 Shares FRC Common First RepublicBank Corp	x							x							x											
S	9	3 Shares FRB.A Preferred First Republic Bank Cl-A	x							x							x											
S	10	75 Shares KRA Common Kraft Inc. New		x						x								x										

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SF 278 (Rev. 1/85)
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Form Approved
OMB No. [illegible]

Reporting Individual's Name Jerry J. Langdon	**Assets and Income**	Page Number 3	Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources			BLOCK B Valuation of Assets							BLOCK C Income																	BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐			Category of Value (X)							Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC			None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
	Examples:	X Y Z Common				x				x									x								x	
		Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
S	1	37 Shares PEG Common Public SVC Enterprise Group	x							X								X										
S	2	102 Shares SBC Common S.W. Bell Corp.		x						X								X										
S	3	31 Shares TGT Common Tenneco Inc.		x						X								X										
S	4	75 Shares TX Common Texaco Inc.		x						X								X										
S	5	5 Shares DD Common DuPont Inc.	x							X							X											
S	6	172 Shares Commerce Income Shares		x						X							X											
S	7	120 Shares Lehman Investors Fund Inc		x						X							X											
S	8	173 Shares Mass Investors Trust		x						X							X											
D	9	1078 Shares American CAP. Comstock			x					X							X											
D	10	Muni Bond Spring Branch TX Ind. School Dist.			x					X							X											

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OMB No. [illegible]

Reporting Individual's Name				
Jerry J. Langdon	**Assets and Income**	Page Number	4	Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

		BLOCK A Assets & Income Sources	**BLOCK B** Valuation of Assets							**BLOCK C** Income																	**BLOCK D** Transactions Test	
		Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC			None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
	Examples	X Y Z Common				x				x									x								x	
		Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
1 S		Various Mineral Ownership N.D, MT, TX, SAK, Canada			x											Royalty Inc.			x									
2		Banc Home Savings Money Market Account					x					x									x							
3 S		Rauscher Pierce C.I.P. (cash) Account				x						x								x								
4																												
5																												
6																												
7																												
8																												
9																												
10																												

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Reporting Individual's Name
Jerry J. Langdon

Page Number	5	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

	Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
		Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
Example	X Y Z Common	X			2/1/83			X			
1	None										
2											
3											
4											
5											
6											

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

	Source *(Name and Address)*	Brief Description	Value
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1	None		
2			
3			
4			
5			
6			

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FPM Chapter 735
U.S. Office of Personnel Management

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Reporting Individual's Name
Jerry J. Langdon

Page Number	6	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)				
						$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
Examples	First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs.			X		
	John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
	Texas Commerce Bank, P.O. Drawer 3905 Midland, TX	Unsecured Business Loan	9/88	Prime +2%	11/88		x			

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/75 ptnership agmnt.
	Although no formal agreements have been made, I will attempt to sell my		
	consulting business through single cash payment if permitted by law.		

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SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

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OMB No. 3206-0092

Page Number	7	Schedule D

Reporting Individual's Name

Jerry J. Langdon

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	American Oil & Gas Company, Inc. , Houston	Oil & Gas	consultant	various times	
	American Oil Partners, Dallas, TX	"	"	"	
	W.G. Arnot, Breckenridge, TX	"	"	"	
	Tom Brown Drilling, Inc., Midland, TX	"	"	"	
	BoxCrow Energy Company, Dallas, TX	"	"	"	
	Cockrell Production Company, Abilene, TX	"	"	"	

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
	American Oil Partners	consulting services
	American Oil & Gas Company, Inc.	consulting services
	Tom Brown Drilling, Inc.	consulting services
	CPC Dale Petroleum	consulting services
	Endevco Oil & Gas Company, Inc.	consulting services
	Estoril Producing Corporation	consulting services

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Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	CPC Dale Petroleum, Dallas	Oil & Gas	Consultant	various times	
	El Paso Natural Gas Company	Natural Gas Pipeline	"	5/87	5/87
	Endevco Oil & Gas Company , El Paso, TX	Oil & Gas	"	various times	
	Estacado Energy, Inc., Lubbock, TX	"	"	"	
	Estoril Producing Company, Midland, TX	"	"	"	
	Trinidad Petroleum, Inc., Birmingham, AL	"	"	"	

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
	Wes-Tex Drilling Company, Abilene, TX	consulting services
	Tucker Drilling Company, San Angelo, TX	consulting services
	W. Wilson Corp., Midland, TX	consulting services (arbitration)
	Southwest Royalties, Inc., Midland, TX	consulting services
	Maple Properties, Inc., Denver, CO	consulting services

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Reporting Individual's Name

Jerry J. Langdon

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	Tucker Drilling Company, San Angelo, TX	Oil & Gas	consulting	various times	
	Tucker Petroleum Company, Corpus Christi, TX	"	"	"	
	Southwest Royalties, Inc., Midland, TX	"	"	"	
	Gaffney Cline & Assoc., Dallas, TX	Oil & Gas Consulting	"	"	
	GCO Minerals, Inc., Houston, TX	Oil & Gas	"	"	
	HMH Operators, Midland, TX	"	"	"	

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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[illegible] 278 (Rev. [illegible])
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Reporting Individual's Name Jerry J. Langdon	Page Number	10	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	Intrepid Acquisitions, Inc., Denver, CO	Oil & Gas	consultant	various times	
	Little Oil & Gas, Inc., San Antonio, TX	"	"	"	
	Moague, Inc., Dallas, TX	"	"	"	
	Musselman Owen & King, Midland, TX	"	"	"	
	Newman Brothers Drilling Co., San Antonio, Tx	"	"	"	
	Paisano Pipeline Company, Midland, TX	Intra-state pipeline	"	"	

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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Reporting Individual's Name

Jerry J. Langdon

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-p[illegible]ation	President	6/82	6/33
	Doe Jones & Smith, Hometown, USA	Law	Partner	7/75	11/83
	RCT Oil & Gas, Inc., George West, TX	Oil & Gas	consultant	various times	
	J. Cleo Thompson, Jr., Dallas, TX	"	"	"	
	Wes-Tex Drilling Company, Abilene, TX	"	"	"	
	W. Wilson Corp, Midland, TX	intra-state pipeline	"	"	
	Wright Brothers Energy, Inc., San Antonio, TX	Oil & Gas	"	"	
	Maple Properties, Inc., Denver CO	"	"	"	

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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OMB No. 3209-0092

Reporting Individual's Name

Jerry J. Langdo

Page Number	12	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	Natural Gas Society of Houston, Houston, TX	Trade Association	Past Chairman	5/77	5/78
	Natural Gas Society of Permian Basin, Midland, TX	"	Past President	1/84	1/85
	University of Texas Ex-Students' Assn, Midland, TX	School	Past President	1/86	1/87
	American Association of Petroleum Landmen	Trade Association	member	1/81	Present
	Texas Independant Producers & Royalty Owners	"	"	9/87	Present
	Permian Basin Petroleum Association, Midland, TX	"	"	1/86	Present

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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278-109

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3206-0092

Page Number	13	Schedule D

Reporting Individual's Name

Jerry J. Langdon

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	Natural Gas Producers Association, Midland, TX	Trade Association	Steering Committee	5/88	Present

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and **New Entrants only:** Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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UNITED STATES SENATE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: STALON (LAST) CHARLES (FIRST) GARY (OTHER)

Position to which nominated: Member F.E.R.C. Date of nomination: July 6, 1988

Date of birth: 26 October, 1929 (DAY) (MONTH) (YEAR) Place of birth: Cape Girardeau, Missouri

Marital status: Married Full name of spouse: Marie Allene (Hitt) Stalon

Name and ages of children	
Connie Lucille (Stalon) Babbitt	Age 34
Donna Jean (Stalon) Williams	Age 33

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Purdue University	1959 - 1963	Ph.D.	1966
Purdue University	1959 - 1963	M.S.	1963
Butler University	1956 - 1959	B.A.	1959
Ohio State University	1955 - 1956	None	-
Southeast Missouri State College	1948	None	-

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

July 1984 to present. Commissioner, Federal Energy Regulatory Commission, Washington, D.C.

September 1977 to July 1984. Illinois Commerce Commission, Springfield, Illinois.

June 1963 to September 1977. Faculty Member, Economics Department, Southern Illinois University, Carbondale, Illinois.

September 1969 - September 1970. Research Economist, Federal Power Commission, Washington, D.C.

Employment record—Continued

January 1972 - May 1972. Visiting Associate Professor of Economics,
Washington University, St. Louis, Missouri.

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

U.S. Navy, volunteer, August 1948 - August 1949.
U.S. Navy, recalled to duty, May 1952 - January 1954.
Radio Operator Third Class. Honorable Discharges.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

National Defense Education Act, September 1959 - June 1962.
National Science Foundation, Summer 1962.
Ford Foundation, September 1962 - June 1963.
Krannert Foundation, Summer 1965.

All four fellowships were grants of money to support my graduate education.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
National Society of Rate of Return Analysts	1982 - present	Member BOD*
Council on Economic Regulation	1986 - present	Member BOD*
National Association of Regulatory Utility Comm.	1977 - present	Executive Committee Member
American Economic Association (AEA)	1962 - present	None
Transportation and Public Utility Group of AEA	1970 - present	None

* Board of Directors

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

1984-Present "Back to Basics in Natural Gas Pipeline Regulation." Presented to the 14th Annual Rate Symposium, February 1988. (to be published)

"A Federal Perspective on Bidding and Other Federal Reforms." Presented to the 19th Annual Conference of the Institute of Public Utilities, December 1987. (to be published)

"What Remains to be Done?" Presented to the 99th Annual Convention of the National Association of Regulatory Utility Commissioners, November 1987. (to be published)

(CONTINUED ON ATTACHED SHEET)

Future employment relationships: 1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

My nomination is to continue a position I currently hold.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No, but my holdings in the Illinois State Universities Retirement System make a return to an Illinois State University attractive.

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No, and No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes.

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

N.A.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

I expect to receive income from the Illinois State Universities Retirement System at some time in the future, but not during the term to which I have been nominated.

3. Are you currently a party to any legal action? If so, describe its nature and status.

As an individual, no. As a FERC Commissioner I may be named in many legal actions before the Courts.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. I have been audited twice. In both cases the original filing was approved.

Published Writings: (Continued from Page 3)

1984-Present (Continued)

"Looking Behind the Narragansett Conflict," Proceedings, Ninety-eighth Annual Convention and Regulatory Symposium of Regulatory Utility Commissioners, NARUC, Washington, D.C. (1987).

"Economic Regulation and Discrimination When Regulation and Competition are Mixed," Proceedings of the 1987 Rate Symposium: Pricing Electric, Gas and Telecommunications Services, Today and for the Future, ed., Richard Wallace (Institute For Study of Regulation, University of Missouri, Columbia, Missouri, 1987) pp. 245-255.

"FERC Pricing Policies and Regulatory Responses to Changing Electric Industry Market Structures," Proceedings of the 1986 Rate Symposium on "Pricing Electric, Gas and Telecommunications Services - Today and For the Future, (eds., Richard Wallace and J. Rhoads Foster, (Institute for Study of Regulation, Washington, D.C. 1987).

"New Challenges to State Regulation of Natural Gas in the Context of FERC Rulemaking," Public Utility Regulation in an Environment of Change, (Public Utility Institute, Michigan State University, East Lansing, MI., 1987) pp. 3-13.

"Wheeling, Competition and Economic Efficiency," Energy Systems and Policy, Vol. 11, 1987, pp. 77-83.

"Cogeneration Implications of Current Federal Energy Regulations," Strategic Planning and Energy Management, Vol. 6, No. 2, Fall 1986, pp. 67-71.

"What is Being Priced in Multiple Part Tariffs?," Iowa State Regulatory Conference, Ames, Iowa, Vol. 25, (1986), pp. 313-20.

"Federal Responses to Changes In The Electricity Industry, FORUM For Applied Research and Public Policy, Vol. 1, No. 4, Winter 1986, (Co-author Reinier Lock).

"Responding Efficiently to Competition in Electricity Regulation," Proceedings of the American Power Conference, Vol. 48, (Illinois Institute of Technology, Chicago, IL, 1986) pp. 16-21.

"Regulating Natural Gas Pipelines in an Increasingly Competitive Environment," Energy Papers No. 12, The U.S. Natural Gas Market and Deregulation, (Foreign Policy

Institute, School of Advanced International Studies, John Hopkins University, Washington, D.C., October 1986) pp. 15-24.

"The Diminishing Role of Regulation in the Natural Gas Industry," The Energy Journal, Vol. 7, No. 2, 1986, pp. 1-12.

"Adjusting to Transportation Markets in the Natural Gas Industry," Proceedings, Ninety-Seventh Annual Convention and Regulatory Symposium, National Association of Regulatory Utility Commissioners, Vol. I, (NARUC, Washington, D.C., 1986) pp. 125-129.

"Regional Supply Planning, Federal Authority and State Regulation -- Thinking Through the Jurisdictional Maze," Administrative Law Review, Summer 1986, Vol. 38, No. 3. pp. 327-338.

"The U.S. Role in Energy Trade in North America," Energy Exploration & Exploitation, Vol. 4, 1986, pp. 169-175.

"Analysis and Synthesis in Quasi-Judicial Multimember Regulatory Agencies," The Future of Electrical Energy: A Regional Perspective of An Industry in Transition, eds., Sidney Saltzman and Richard E. Schuler (Praeger, New York, 1986) pp. 330-339.

"Financial Planning and Regulation of Electric Utilities in an Uncertain Economy," Proceedings of the Twentieth Financial Conference (Edison Electric Institute, Washington, D.C. 1985).

"Risk Bearing in Regulated Capital Intensive Industries," Proceedings, Eleventh Annual Rate Symposium, Pricing Electric, Gas and Telecommunications: Today and For the Future, eds., J. Rhoads Fosters and Richard L. Wallace, (Institute for Study of Regulation, Washington, D.C. 1985), pp. 250-257.

"Regulatory Treatment of Research and Development Expenses," Public Utilities Fortnightly, Vol. 114, No. 9, pp. 21-23.

Published Writings: 1977-1984

"A State Regulator's Response to Selected Issues Raised During the Proceedings," Telecommunications Access and Public Policy, eds., Alan Baughcum and Gerald Faulhaker (Ablex Publishing Corp., Norwood NJ., 1984), pp. 231-37.

"The Economics of Capital Recovery," Proceedings of the 95th

Annual Convention of the National Association of Regulatory Utility Commissioners, 1983.

"The Current Natural Gas Industry: Some Comments," Natural Gas Deregulation: Its Impact on Illinois and the Midwest, Proceedings of the 11th Annual Illinois Energy Conference, October, 1983, University of Illinois at Chicago, pp. 111-13.

"Some Economic Consequences of the Tax Act of 1981 on Capital Intensive Utilities," Diversification, Deregulation and Increased Uncertainty in the Public Utility Industries, 1983 MSU Public Utilities Papers, pp. 72-85.

"On Why State Regulators Should be Disturbed About Current Federal Utility Tax Policy," Proceedings of the National Association of Regulatory Utility Commissioners 94th Annual Convention, 1982, pp. 131-48.

"History of the Energy Regulatory Process in Illinois," The Illinois Energy Utility System: Strategies for the 80's, (Illinois Department of Energy and Natural Resources, Springfield, Illinois, November, 1982), pp. 107-59.

"Introductory Remarks to the Panel on Regulatory Response to the Restructuring of the Telecommunications Industry," 1982 Proceedings on Rate Symposium on Problems of Regulated Industries, Extension Publications, University of Missouri-Columbia, Columbia, Missouri, pp. 303-11.

"An Analysis of Important Defects in the Current Process of Natural Gas Deregulation," Iowa State University Regulatory Conference, 1981, Vol. 21, pp. 278-87.

"Deregulation of Wellhead Prices: For What Purpose?" Proceedings of the National Association of Regulatory Utility Commissioners 93rd Annual Convention, 1981, pp. 20-26.

"Translating Price Theory into Practice in Public Utilities," 1981 Illinois Economic Association Proceedings, pp. 41-45.

"Deregulation of the Electric Generating Industry: Some Unsystematic Observation," Proceedings of the Edison Electric Institute 1981 Financial Conference.

"The Role of State Regulation: Promoting Self-Reliance," Illinois Energy Policy: Toward Self-Reliance, Proceedings of the Tenth Annual ENR Conference, (Illinois Department of Energy and Natural Resources, Chicago, Illinois), September, 1981. pp. 77-85.

"Some Views on Optimal Wellhead Bargains," 1981 Proceedings on Rate Symposium on Problems of Regulated Industries, Extension Publications, University of Missouri-Columbia, Columbia, Missouri, pp. 241-51.

"Natural Gas Pricing: Which Error Should the Nation Commit?" Proceedings of the 92nd Annual Convention of the National Association of Regulatory Utility Commissioners, (NARUC) 1980, pp. 87-90.

"Transportation Policy Making in a Democratic Society: An Economic Reformer's Dilemma," Eastern Transportation Law Seminar, 1980, pp. 87-90.

"Microeconomic Decision Making in an Unstable Macro-economic Environment," Conference Proceedings #92, Resource Planning Associates, October 21, 1980, pp. 521-31.

"Viability and Acceptability of Local Measured Service: Comments from a Regulator's Viewpoint," to the Telecommunications Industry Workshop, Kansas City, Missouri, March, 1979. (Published in the proceedings.)

"Trucking Regulations within Illinois: Impressions of a New Commissioner," Transportation Journal, Vol. 18, No. 2, Winter 1978, pp. 42-48.

Published Writings: Pre-1977

"Promotional Practices of Public Utilities: A survey of Recent actions by State Regulatory Commission," A report to the Subcommittee on Regulatory Agencies, Select Committee on Small Business, U.S. House of Representatives. Published by the Federal Power Commission, March, 1970.

"An Economic Analysis of Some Implication of FPC Ceiling Prices on the Supply of and Demand for Natural Gas," testimony presented in Docket AR-69-1, Area Rate Proceedings, South Louisiana Area, Federal Power Commission, May, 1970.

"The Effects of Monopoly Power in the Initiation and Propagation of Price Level Changes," Papers in Quantitative Economics, eds. James Quirk and Arvid Zarley, (University of Kansas Press, Lawrence, 1968), pp. 465-484.

"An Investigation of the Behavior of a Wholesale Type Price Index Under Conditions of Heterogeneous Price Charges,"Ph.D. Dissertation, Purdue University, 1966.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None..

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None.

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes.

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

   I don't believe there are any potential conflicts present, but if any unanticipated ones appear, I will consult with and respect the advice of the FERC's ethics officer.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

   I will consult with and respect the advice of the FERC's ethics officer.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

I, Charles G. Stalon, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Charles G. Stalon
(Signature of Nominee)

Subscribed and sworn to before me this 12th day of July, 1988

Blanche V. Williams
Notary Public

My commission expires 1/14/91

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1987—67-074

SF 278 (Rev. [illegible])
FPM Chapter 734
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. [illegible]

Reporting Status *(Check Appropriate Box)*		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or [✓ Nomination] *(Mo., Day, Yr.)*	Termination Date *(If Applicable)* *(Month, Day, Year)*
☐ Incumbent	☒ New Entrant [✓ Nominee] or Candidate ☐ Termination Filer			Pending	N.A.
Reporting Individual's Name	Last Name STALON	First Name and Middle Initial Charles G.			
Position for Which Filing	Title of Position Commissioner	Department or Agency *(If Applicable)* Federal Energy Regulatory Commission			
Location of Present Office	Address *(Number, Street, City, State and ZIP Code)* 825 N. Capitol St., N.E., Room 9010 Washington, D.C. 20426	Telephone No. *(Include Area Code)* (202)357-8388			
Position(s) Held With the Federal Government During the Preceding 12 Months *(If Not Same as Above)*	Title of Position(s) and Date(s) Held Same as above July 14, 1984 to Present				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination Energy and Natural Resources	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No			
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual Charles G. Stalon	Date *(Month, Day, Year)* May 11, 1988			
Other Review (If desired by agency)	Signature of Other Reviewer	Date *(Month, Day, Year)*			
Agency Ethics Official's Opinion The information contained in this report discloses no conflict of interest under applicable laws and regulations	Signature of Designated Agency Ethics Official/Reviewing Official	Date *(Month, Day, Year)* 7/12/88			
Office of Government Ethics Use Only	Signature	Date *(Month, Day, Year)*			

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for Income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if comments are continued on the reverse side) ☐

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NSN 7540-01-070-8444

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name		Page Number	Schedule
STALON, Charles C.	**Assets and Income**	2	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. **Exclude** your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

S or DC		BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets: Category of Value (X)							BLOCK C Income: Type of Income (X)							Category of Amount of Income (X)										BLOCK D Transactions Test: If yes, complete Schd. B Part I for those assets including those sold for a loss.	
		Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
Examples		X Y Z Common				x				x									x								x	
		Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
	1	Individual Retirement Acct. Boston Safe Deposit & Trust			X					X						•			X									
S	2	Individual Retirement Acct. Boston Safe Deposit & Trust			X							X						X										
	3	Illinois Universities Retirement System, Urbanna, IL					X										X											
	4	Loyola Federal Savings & Loan, Bethesda, MD			X							X						X										
	5	Former residence-410 Skyline Dr. Carbondale, IL 62901					X				X									X								
	6	U.S. Series E Bonds		X								X						X										
	7																											
	8																											
	9																											
	10																											

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[illegible]
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. [illegible]

Reporting Individual's Name	STALON, Charles G.

Page Number	3	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☒

S or DC		Identification of Assets	Type of Transaction (X) Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X) $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example	X Y Z Common	X			2/1/83			X			
1												
2												
3												
4												
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) [illegible], exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S		Source (Name and Address)	Brief Description	Value
	Example	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
		Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1		Electric Power Research Institute	Hotel room and meals incident to annual conference - 8/23-27/87	$500
2				
3				
4				
5				
6				

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SF 278 (Rev. 1/84)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name

STALON, Charles G.

Page Number	4	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☒

S or DC		Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	Examples	First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs.			X		
		John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
	1										
	2										
	3										
	4										
	5										
	6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

Status and Terms of any Agreement or Arrangement		Parties	Date (Mo., Yr.)
Example	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Hometown, USA	7/78 ptnership agmnt.
*See the note under "Southern Illinois University" on page 5, Schedule D			

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[illegible] (Rev. [illegible])
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name	STALON, Charles G.

Page Number	5	Schedule	D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.**

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/76	11/83
	National Society of Rate of Return Analysts	Non-profit education	Member, Board of Directors	1982	Present
	Institute for Study of Regulation	Non-profit education	Member, Board of Directors	4/85	2/87
	Council on Economic Regulation	Non-profit education	Member, Board of Directors	6/86	Present
	National Association of Regulatory Utility Commissioners	Professional Association	Member, Executive Committee	7/86	Present
	Southern Illinois University*	State University	Visiting Professor on Leave	7/84	Present
	*This position provides neither salary or future rights except rights in the State Universities Retirement System.				
	Int'l Energy Program, Johns Hopkins Foreign Policy Institute	Non-profit education	Member, Advisory Council	1987	Present

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☒

	Source (Name and Address)	Brief Description of Duties
Examples	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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NOTES ON FORM 278, CHARLES G. STALON

1. Schedule A, Line 1: IRA, Boston Safe Deposit & Trust. Funds are in Capital Appreciation Fund. Per 1987 annual report, a widely diversified mutual fund. Energy holdings (utilities) were 6.2% of fund's assets. No one company had 5% or more of fund's assets.

2. Schedule A, Line 2: Spouse's IRA, Boston Safe Deposit & Trust. Investment is split between two funds:

   (Per 1987 annual report)
   1) Cash Management Fund. No assets in Corporate notes of energy concerns.
   2) Government Money Fund.
   Conclusion: No Conflict

3. Schedule A, Line 3: Illinois Universities Retirement System. Not TIAA/CREF. Stalon has not received any annual reports since 1976.
   Per 1976 annual report, a widely diversified pension fund. Holdings of public utilities, including energy concerns, were less than 20% of fund's assets. 1987 Annual Report being sent.

4. Schedule B, Part II Gifts, etc.
   Line 1: Electric Power Research Institute. Value of gift to the FERC should be $250, the total value of meals and entertainment incident to annual conference (the government paid for hotel room). This gift received pursuant to gift acceptance authority in § 652 of Department of Energy Organization Act. Stalon was on official travel. Designated Agency Ethics Official approved the gift as not conflicting.

5. Schedule D, Part I - Positions held outside U.S. Government
   Last line: Member, Advisory Council, International Energy Program, Johns Hopkins Foreign Policy Institute. A non-profit educational program of graduate international studies. Advisory Council meets once a year to advise on educational programs and policies. Institute does not participate in proceedings before agencies, including the Federal Energy Regulatory Commission.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name:	TRABANDT (LAST)	CHARLES (FIRST)	ANTHONY (OTHER)

Position to which nominated: Commissioner, Federal Energy Regulatory Commission

Date of nomination:

Date of birth: 26 (DAY) 11 (MONTH) 1941 (YEAR)

Place of birth: Baltimore, Maryland

Marital status: Married

Full name of spouse: Joan Sibson Trabandt

Name and ages of children: Gregory Miles, 17
Scott Sibson, 9
Douglas Anthony, 7
Christina Elizabeth, 5

Education:

Institution	Dates attended	Degrees received	Dates of degrees
U.S. Naval Academy	1959-1963	B.S.	1963
George Washington Univ.	1969		
Georgetown Univ. Law School (Evening Program)	1971-1975	J.D.	1975

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1963-1969, U.S. Navy Submarine Officer, Various Locations

1969-1972, C.I.A., Intelligence & Operations Officer, Langley, VA

1972-1975, Tetra Tech, Inc., Program Mgr., Arlington, VA

1975-1977, House Science & Technology Committee, Subcommitte Minority Counsel

1977-1984, Senate Energy & Natural Resources Committee, Minority Staff Counsel (1977-1980), Chief Counsel (1981-1984)

1984-1985, Dept. of the Interior, Exec. Ass't to Sec'y & Counsellor to the Controller

Employment record—Continued

1985-Present, Commissioner, FERC

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

U.S. Naval Academy - 1962, awarded Stars for academic achievement and 1963 selected upon graduation for instructorship in English, History & Government; 1969 - awarded MBA scholarship to Dartmouth College; 1974 - Georgetown Law Center - Editor, Law and Policy in International Business (Int'l Law Journal); 1965 and 1966: U.S. Navy - American Expeditionary Force Vietnam Medal; 1981 Presidential Commendation For Exemplary Service during the Presidential Transition.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
Phi Delta Phi Legal Fraternity	1974-1976	

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Georgetown University Law Center, Law and Policy in International Business: assisted in preparation or edited various pieces as a member of the international law journal staff; authored legislative development article on the Intervention on the High Seas Act of 1974.

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

No, I would continue at F.E.R.C.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are you currently a party to any legal action? If so, describe its nature and status.

As Administrator of my Mother's Estate, I am involved in a contested probate proceeding with regard to her sister's estate begun before my Mother's death. Lower court decision is on appeal in Pennsylvania Superior Court.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes, 1977 return audited with regard to the deduction for my wife's employment — required Ph.D. studies — additional tax paid.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

I am Trustee with a remainderman interest of Ruth E. Trabandt Trust
established by my Mother for the benefit of the grandchildren and
my brother (this Trust succeeds my Mother's prior inter vivos Trust)
The Trust only includes bank instruments and will not invest in any
security which would constitute a conflict.

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes and I have been subject to them since November 4, 1985.

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

Please see answer to question (1) above.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

It is my intention to comply fully with all applicable conflict of interest laws and regulations and to seek and follow the Counsel of the FERC Ethics Officer, as I have done since November 4, 1985.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No

AFFIDAVIT

I, Charles A. Trabandt, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Charles A. Trabandt
(Signature of Nominee)

Subscribed and sworn to before me this 13th day of September, 1988

Notary Public

My Commission Expires November [illegible], 1989

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1987—67-074

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. 3206-0092

Page 1

Reporting Status *(Check Appropriate Box)*

☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Filer

Agency Use Only:

OGE Use Only:

Date of Appointment, Candidacy, Election or Nomination *(Mo., Day, Yr.)*: PENDING

Termination Date *(If Applicable)* *(Month, Day, Year)*:

Reporting Individual's Name

Last Name: TRABANDT

First Name and Middle Initial: CHARLES A.

Position for Which Filing

Title of Position: COMMISSIONER For Term: 10/20/88 to 10/20/92

Department or Agency *(If Applicable)*: FEDERAL ENERGY REGULATORY COMMISSION

Location of Present Office

Address *(Number, Street, City, State and ZIP Code)*: Room 9300, 825 N. Capitol St., N.E. Washington, D.C. 20426

Telephone No. *(Include Area Code)*: (202) 357-8366

Position(s) Held With the Federal Government During the Preceding 12 Months *(If Not Same as Above)*

Title of Position(s) and Date(s) Held: COMMISSIONER, FERC For Term ending 10/20/88

Presidential Nominees Subject to Senate Confirmation

Name of Congressional Committee Considering Nomination: Committee on Energy & Natural Resources

Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Certification

I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.

Signature of Reporting Individual: Charles A. Trabandt

Date *(Month, Day, Year)*: 8/15/88

Other Review (If desired by agency)

Signature of Other Reviewer:

Date *(Month, Day, Year)*:

Agency Ethics Official's Opinion

The information contained in this report discloses no conflict of interest under applicable laws and regulations.

Signature of Designated Agency Ethics Official/Reviewing Official:

Date *(Month, Day, Year)*:

Office of Government Ethics Use Only

Signature:

Date *(Month, Day, Year)*:

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if comments are continued on the reverse side) ☐

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U.S. Office of Personnel Management

Reporting Individual's Name	Assets and Income	Page Number	Schedule
CHARLES A. TRABANDT		2	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

S or DC	BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets							BLOCK C Income																		BLOCK D Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Sched. B Part I for those assets including those sold for a loss.	
		None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000				YES	NO
Example	X Y Z Common				X				X									X									X	
	Doe Jones & Smith, Hometown, USA			X											partnership income										[illegible]			
1 S	Northern Virginia Community College														Salary													
2 [illegible]/S	First Virginia Bank - Interest Bearing Accounts						X				X									X								
3 S	United Savings Bank - IRA			X							X							X										
4	Ruth E. Trabandt Trust: Trustee of Trust Fund						X				X										X							
5	established by Mother (deceased 10/5/87) for																											
6	benefit of the grand-children and my brother,																											
7	with remainderman interest. Trust held in agency trust																											
8	account at NBD-Ann Arbor Bank in Michigan.																											
9																												
10																												

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[illegible]
[illegible]
U.S. Office of Personnel Management

[illegible]
OMB No. [illegible]

Reporting Individual's Name
CHARLES A. TRABANDT

Page Number	3	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC		Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
			Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001 $5,000	$5,001 $15,000	$15,001 $50,000	$50,001 $100,000	$100,001 $250,000	Over $250,000
	Example	X Y Z Common	X			2/1/83			X			
1		NOT APPLICABLE										
2												
3												
4												
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S		Source (Name and Address)	Brief Description	Value
	Example	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Example	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1		NOT APPLICABLE		
2				
3				
4				
5				
6				

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Reporting Individual's Name		Page Number	4	Schedule C
CHARLES A. TRABANDT				

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☒

S or DC		Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50 001 to $100,000	$100,001 to $250,000	Over $250,000
	Examples	First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs			X		
		John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1											
2											
3											
4											
5											
6											

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/75 ptnership agmnt.

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SF 278 (Rev. [illegible])
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. [illegible]

Reporting Individual's Name
CHARLES A. TRABANDT

Page Number	5	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	Ruth E. Trabandt Trust	Mother's Revocable Living Trust	Co-Trustee	1/83	10/87
		Beneficial Trust for Brother & Grandchildren	Trustee	10/87	Present

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprises, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☒

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
	Only compensation was from U.S. Government	

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Appendix II

Responses to Additional Committee Questions From the Nominees

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300 North Marienfeld
Suite 200
Midland, TX 79701

September 21, 1988

Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are my responses to written questions for the record of your committee's September 19 confirmation hearing to consider my nomination to serve a full term on the Federal Energy Regulatory Commission.

I very much appreciated the opportunity to appear before the Energy and Natural Resources Committee and am grateful for the warm support which you and other members of the committee so kindly offered.

If you have any further questions or need additional information, please do not hesitate to call me.

Sincerely,

Jerry J. Langdon

Enclosure

ADDITIONAL QUESTION FOR THE RECORD
FROM SENATOR JEFF BINGAMAN
FOR JERRY J. LANGDON

Question 1. What is your opinion of the transfer of Section 3 authority of ERA to FERC?

Answer. I understand that there has been considerable discussion in the recent past over the appropriate agency to exercise section 3 authority. Based upon my limited review of this issue, there are various factors that should be taken into consideration in making this assessment.

For example, consolidating section 3 functions in a single agency may promote administrative efficiency. It would also eliminate the potential for inconsistencies between the ERA and FERC--although I understand FERC and ERA have avoided such inconsistencies in the past.

These considerations must be weighed against various policy matters. For instance, import/export decisions often raise sensitive foreign policy issue. Clearly, international relations and dealings with foreign governments can best be done by the Executive Branch of government through the DOE and State Department.

ADDITIONAL QUESTIONS FROM SENATOR HOWARD M. METZENBAUM FOR JERRY J. LANGDON

Question 1. The stated goals of the FERC electricity proposals include utilizing competitive forces and encouraging greater efficiencies to lower electric costs to consumers.

How can these goals be realized without a condition requiring open access transmission of electricity as an integral part of the FERC electric policy initiative?

Answer. Recognizing the fact that I have only begun to review the electric NOPRs, and that I have not had the benefit of previous discussion on the subject, I am hesitant to make more than a very broad comment on this subject. I would say, however, that there is apparent similarity in the important role open access transmission played in the gas industry to the electric policy initiatives. Accordingly, after I have had the opportunity to review the NOPRs and the record in more detail, I would like to discuss my views with you at a later date.

Question 2. I am told that Ohio currently faces a large reserve margin of electricity capacity that is being paid for by the Ohio electric ratepayers. Yet, areas in the northeast may be facing power shortages in the near future.

How would you approach the problem that is preventing Ohio from selling its excess capacity to the northeast, so that ratepayers in both areas would benefit?

Answer. If confirmed by this Committee and in keeping with the Congressional mandate under various statutes to ensure customers have a reliable, low cost supply of electricity, I will support efforts within FERC's jurisdiction to encourage the transmission of bulk power when such actions will benefit ratepayers. Moreover, where physical capacity problems exist, I would support policies which would encourage the resolution of bottlenecks, being mindful of the environmental concerns on a case specific basis.

Question 3. A recent FERC rule, Order 451, now before the U.S. Court of Appeals, has dramatically raised the cost of old, forever regulated gas.

A second recent FERC rule, Order 490, would allow producers to abandon their obligations to supply their customers with gas at the end of the contract term - without FERC approval, as required by the Natural Gas Act & Supreme Court rulings.

a. What are your views on these gas rules?

Answer. Again, citing FERC's Congressional mandate to ensure reliable, low cost supplies of natural gas, I would not support any actions which would unnecessarily raise the cost of natural gas to consumers. Because I have not had the opportunity to evaluate the effectiveness of the Orders 451, 490 procedure, and pending the outcome of the Appeals Court decision I would like to defer any further comment on this matter until a later date.

b. Do you believe they comport with the Congressional intent in the Natural Gas Act and the Natural Gas Policy Act?

Answer. I generally believe that the Congressional intent of Natural Gas Act was effected by court decisions beginning in 1954 with the Phillips decision. Additionally, NGPA provided for more flexibility based on more competitive market forces. I have not, however, drawn any specific conclusions about whether Orders 451 and 490 comport with the interrelated intent of Congress under NGA and NGPA.

Question 4. FERC's take-or-pay policy would spread the burden of take-or-pay liabilities among producers, shareholders of pipelines, and firm supply gas consumers. As I understand it, shareholders of local distribution companies and some large industrial consumers would not be forced to share in this burden.

a. Is that equitable, in your opinion?

Answer. I generally believe that all parties should participate on an equitable basis in their settlements. Unfortunately, the FERC's jurisdictional limitations pursuant to some non-regulated purchasers and, in particular, LDCs has hamstrung the Commission's ability to require downstream purchasers to comport with settlements.

b. Do you have any ideas as to how to force all parties to share in take-or-pay liabilities?

Answer. Exacerbating the problem, is the state's general reluctance to cooperate with the FERC's efforts to resolve take-or-pay to intrastate regulated purchasers. Through indirect efforts I believe the FERC may be able to encourage state regulatory agencies through their individual regulatory authorities to take a more active role in apportioning the sharing of take-or-pay liabilities.

SENATOR JAMES A. McCLURE
QUESTIONS FOR FEDERAL ENERGY REGULATORY COMMISSION NOMINEES
September 19, 1988

Commission Authority to Review BPA Rates

In 1980 Congress passed the Pacific Northwest Electric Power Planning and Conservation Act. The Act was passed following significant and lengthy deliberations in both the House and the Senate. The Act redefined the review authority of the Commission regarding BPA rates. In the Act, Congress clearly departed from the past pattern of Commission review in favor of a limited, oversight role.

Congress withdrew rate design and cost allocation issues from Commission review of BPA's first power rates and replaced this review with an appellate-type review limited essentially to assuring that BPA's firm power rates (a) recover BPA's costs and (2) repay the U.S. Treasury. For BPA's nonfirm rates, Congress provided additional procedural safeguards to BPA's nonfirm customers and retained, but did not expand, the Commission's review authority over nonfirm rates. The trade-off Congress made was to limit the Commission's review authority and to impose on BPA more stringent and complex ratemaking provisions as found in section 7(i).

Congress' enactment of the Northwest Power Act was thoughtful and deliberate, and Congress knew what it was doing. What should be obvious in Congress' enactment of the Act is the clear absence of any transfer of any Federal Power Act standards on either BPA ratemaking or Commission review. (Remember, the Commission uses its FPA procedural rule in 7(k) hearings). Recently, the Commission has taken some actions that do not seem consistent with its statutory authority for review of BPA rates.

Question 1. Are you aware that Congress has specifically defined the Commission's authority to review BPA's rates under the Northwest Power Act and that this authority does not include any review under the Federal Power Act?

Question 2. Are you aware that the Northwest Power Act does not even mention the Federal Power Act in describing the standards under which the Commission is to approve and confirm BPA's rates?

Review of Power Exchanges

Question 1. I note that recently the Commission has also made inquiries in to BPA's capacity-for-energy exchanges of power. As you know, Congress has for over 50 years authorized BPA to enter into exchanges of power with other utilities, both inside and outside the region. Exchanges are mutually beneficial and have historically, permitted BPA and the utilities to realize operational efficiencies. But exchanges are not sales of power and thus do not require rates subject to Commission review.

Are you aware that BPA's exchanges with regional and extraregional utilities are not sales of power and do not require rates, so the Commission has no jurisdiction to review exchanges?

BPA's Ability to Repay Treasury

Question 1. BPA has strict statutory requirements to recover its costs and repay the U.S. Treasury. Historically, the Commission has rendered decisions which assist in protecting the U.S. taxpayers' investment in the Federal Columbia River Power System.

Recently, however, it has been recommended that the Commission take away from BPA its flexibility to charge above-cost for its nonfirm energy--in order to offset its below-cost sales--so that on average BPA recovers the full cost of producing nonfirm energy. Such a recommendation guarantees BPA an underrecovery of costs if it cannot offset sales made at prices which are below cost and which are often the only prices the market will bear. I find it difficult to understand how BPA can adequately recover its costs and repay Treasury if the Commission, in the course of regulating BPA's rates, tries to second-guess BPA's marketing decisions in a volatile energy market place.

As a Commissioner, will you affirm the Commission's commitment to our nation's taxpayers and electric ratepayers in the Pacific Northwest--a commitment which in the past has enabled BPA to recover its costs and repay the Treasury?

BPA-California Relationship

The Pacific Northwest-Pacific southwest Intertie was built over 20 years ago, electrically connecting California to the Pacific Northwest. The Intertie--both AC and DC-- has allowed transfers to electricity to occur between the two regions which have provided tremendous benefits to ratepayers throughout the West.

Electric energy sales to California utilities represent about 20 percent of the Bonneville Power Administration's revenues and, working together, BPA and California utilities have saved consumers in both regions billions of dollars over the years. This partnership has also helped to assure repayment of the U.S. taxpayers' investment in the Columbia River Power System.

I am troubled, however, by recent Commission actions which could threaten this historic partnership. A recent Commission order could be interpreted to suggest that BPA should price its power sold to California at such a low rate that there would simply be no incentive to sell to California. This would obviously be an unwise disservice to both regions. I strongly urge you to look closely at this issue and to work to take actions that can allow mutually beneficial power transfers between the two regions to continue.

In this same light, I would note that BPA and Southern California Edison Company have recently announced a proposed 20 year transactions. This transaction is extremely important not just because it is a contract that clearly benefits ratepayers in both regions, but because it seems to be a major step toward improving the business climate between the Pacific Northwest and California. I would also just note that BPA had last January entered into 20 year agreements with the cities of Burbank, Glendale, and Pasadena.

Question 1. Would you be generally supportive of promoting mutually beneficial transactions between the Pacific Northwest and Pacific Southwest regions?

Question 2. If confirmed, will you support and encourage the continuation of this vital energy partnership between the two regions?

Natural Gas Open Access Transportation

Question 1. On October 9, 1985, the Commission established its natural gas open access transportation program in Order No. 436. On June 23, 1987, the U.S. Court of Appeals for the D.C. Circuit vacated Order No. 436, largely on the grounds that it failed to address the take-or-pay problems of pipelines, and remanded the Order to the Commission for further proceedings. On August 7, 1987, the Commission issued Order No. 500 as an interim replacement for Order No. 436.

It is now nearly three years since the Commission originally established its open access transportation program, and it is more than one year since that Order was vacated and interim regulations were put into place.

Why haven't final rules yet been established for the open access transportation program? When can we expect that to occur?

Question 2. Which pipelines have elected to become an open access transporter, and which have not? Of those who are an open access transporter, which are doing so pursuant to a blanket certificate?

Question 3. What is the current status of pipeline take-or-pay exposure and prepayments of? Please provide data for the past five years on a pipeline by pipeline basis.

Question 4. Have any pipelines experienced a worsening of their take-or-pay problems as a result of becoming an open access transporter?

FERC "Electricity Strategy"

Question 1. In your opinion, does the record established by the Commission on the proposed regulations governing independent power producers (Docket No. RM88-04-000), governing bidding programs (Docket No. RM88-05-000), and administrative determination of full avoided costs (Docket No. RM88-06-000) warrant and justify proceeding with final regulations in these matters?

Question 2. What has delayed the Commission's issuance of a notice of proposed rulemaking regarding transmission pricing?

Question 3.a. Is the Commission seeking to implement through individual cases (e.g., Ocean State Power, Docket No. ER88-478-000) the policies proposed in the "electric strategy" NOPRs?

Question 3.b. Is it appropriate to establish generic policy through narrow individual cases?

Question 3.c. Does that approach give all interested and affected parties a fair opportunity to participate in the policy making?

Oil Pipeline Regulation

Question 1. What can the Commission do to streamline and reduce the burden of oil pipeline regulation?

U.S.-Canada Free Trade Agreement

Question 1. What the enactment of the U.S.-Canada Free Trade Agreement have any affect on, or require the Commission to make any changes to its natural gas regulations, particularly Opinion No. 256 or Order No. 500.

Dam Safety

Question 1. What criteria does the Commission use to evaluate the adequacy of dams to handle floods? How was that criteria developed, and how long has it been in use?

Question 2. Since the development of that criteria, have there been any developments (e.g., studies, reports, analyses) which would suggest that this criteria is no longer appropriate or valid?

Question 3. As a practical matter, how is that criteria utilized by the Commission when reviewing individual dams?

Question 4. Under what circumstances does the Commission use a cost-benefit analysis in determining whether or not changes would be ordered to be made to dams?

Question 5. How many dams has the Commission reviewed to determine whether or not they meet the Commission's flood criteria?

Question 5.a. How many of these has the Commission found to satisfy the criteria? Have all of these been notified of that determination?

Question 5.b. How many are still under review?

Question 5.c. How many has the Commission found to not satisfy the flood criteria? Please identify and give the Commission's best estimate of the cost required to make the necessary improvements. Have any of these determinations been appealed to the Commission?

General Response

In reviewing your additional questions submitted, I would like to respond generically by first saying that I understand your serious concern regarding the various fact issues raised (particularly with regard to the BPA question and "Electric Strategy" questions). Unfortunately, due to the voluminous nature of the NOPRs and the record, I believe any comments at this time would be premature. I will, however, reassert my pledge of Tuesday to acquaint myself as quickly as possible with these issues if confirmed by this Committee.

Additionally, many of the questions require factual answers to which I, as a private citizen, have no exposure. With your indulgence, I would respectfully defer to the answers submitted by Commissioners Stalon and Trabandt.

I would like to respond to the following questions in sequence:

Natural Gas Open Access Transportation

I would agree that it has taken an unusually long time to finalize Order 500. In defense of the timing, however, I think it is important to note that Order 500 has been implemented on an interim basis. I understand the Chairman is still hopeful that the final order can be issued by the end of the year. To the extent that timing is still appropriate, I will not unnecessarily impede that progress if confirmed by this Committee.

Oil Pipeline Regulation

I believe that the regulation of oil pipelines require some streamlining. I have been advised that the last attempt to address the market competitive issues relating to oil pipelines was last made in 1977-1978. Obviously, the Commission and the regulatory environment in general has made significant progress since that time adding competitive forces to the natural gas marketing system which may serve as precedents. If confirmed by this Committee, I will support any reevaluation of this question.

Dam Safety

As previously noted, the questions in this section require fact answers to which, as a private citizen, I have no exposure. As a general statement, I am committed to the safety and well being of the public.

Conclusion

If confirmed by this Committee, I would like to spend the appropriate time to acquaint myself with the specifics of the BPA and "Electric Strategy" questions asked herein. At your convenience, I would like to schedule a time to discuss my views at a later date.

ADDITIONAL QUESTIONS FOR THE RECORD
FROM SENATOR WENDELL FORD
FOR JERRY J. LANGDON

Question 1. Recurring concerns have been voiced over nonadherence by FERC's legal and technical staff to the Commission's separation of trial and advisory functions rule.

A. It is my understanding that in the electric rate, natural gas, and oil areas, many supervisory and non-supervisory technical personnel play a major participatory and strategy development role in administrative trial proceedings, including settlement conferences.

Would it be your practice to identify and preclude such personnel from advising the Commission on the merits of litigated cases or certified settlements? If not, how would you insure compliance with the separation of function rule by technical personnel?

Answer. Presently I am sufficiently unfamiliar with the separation of trial and advisory function rule as to need to defer to the FERC's Office of General Counsel regarding my answer to this question and Question B below. The following represents the established FERC position on separation of function:

The Commission's separation of functions rules bar a staff member from combining the role of trial advocate or witness in an administrative adjudication with the role of advisory to the Commission in the same or a factually related case. Commission technical personnel who take part in the conduct of a trial -- whether in drafting testimony, developing trial strategy or appearing as witnesses -- do not advise the Commission on the merits of the same proceeding. The separation of functions prohibitions are thus case specific. In adopting the Administrative Procedure Act, Congress consciously refrained from imposing a rigid wall of separation that would have barred staff members from taking an advocacy role in one case and an advisory role in a different case.

B. FERC's office of General Counsel is organized into separate advisory and litigation units to implement the separation of functions rule. However, FERC's General Counsel and Associate General Counsels supervise both trial and advisory legal staff. If such supervisory personnel provides evidence or discusses with legal or technical trial staff, the conduct of a particular ongoing administrative trial or trial strategy, how would you insure against being advised by the General Counsel or Associate General Counsels in the same proceeding or factually related case?

Answer. As suggested in my answer to Question A, the separation of functions principle is not absolute. It recognizes there must of necessity be some central direction for all elements of the staff to assure that the entire staff is working to further the goals and policies of the Commission. The litigation role of the General Counsel and the Associate General Counsels is limited to establishing broad litigation policy, setting general priorities, and providing direction on administrative and personnel issues. These senior officials do not supervise the actual conduct of any particular adjudication and do not discuss evidence or strategy in a particular case with the trial staff. In the event that a senior manager in the Office of the General Counsel should decide to participate in the conduct of a particular trial, he or she would be barred from serving as an advisor to the Commission in that case.

C. Would you be prepared to support assignment of a FERC employee to oversee strict compliance with the separation of functions rule by both legal and technical staff?

Answer. It would seem the obvious solution to the separation of functions problem would be to form separate and distinct offices under the General Counsel umbrella for trial and advisory staffs. Unfortunately, because of budget and other practical considerations, such an action is probably prohibitive. I understand the necessity of a strict compliance in this regard and will ensure that my staff understands as well. I have been informed by the Office of General Counsel that its supervisory and management team is currently mindful of separation of function and carefully administer the oversight functions in this regard.

ADDITIONAL QUESTIONS FOR THE RECORD
FROM SENATOR J. BENNETT JOHNSTON
FOR JERRY J. LANGDON

Question 1. I am disturbed by information I have received concerning FERC's use of Probable Maximum Flood ("PMF") methodology to assess the safety of licensed dams. From what I am told, this method of judging risk to dams does not do what its name implies. That is, it does not calculate the probability that a given maximum flood will occur and thus leads to absurd results.

For example, the probable maximum flood for one project in Wisconsin has been calculated to occur once in 35 million years, and yet under the PMF methodology this design standard would have to be met. Both the National Academy of Sciences and the Bureau of Reclamation have rejected the PMF methodology because of its unrealistic projection of risk.

In light of these facts, would you be willing to support a review, with industry and public participation, of the appropriateness of using the PMF standard?

Answer. Subject to my very cursory review of the use of Probable Maximum Flood ("PMF") methodology pursuant to the safety requirements for licensing dams, it is my understanding that the PMF is not applied in all situations. Rather, it is used primarily where the failure of a dam would result in the loss of life. Additionally, I have been advised that in instances where the PMF is considered onerous or overburdensome, the Commission staff has set a lower standard if the information demonstrates that loss of life would not occur. Further, I have been advised that the Commission can modify the use of PMF in specific cases where warranted.

If confirmed by this Committee, I would welcome input from both the industry and the public regarding the use of PMF criteria as a Commissioner. Accordingly, I would attempt to exercise appropriate judgments based on reasonableness in extreme cases.

Question 2. Among the many responsibilities of the FERC is the annual review and approval of the R&D program of the natural gas industry managed and funded by the Gas Research Institute. The Commission approves the GRI funding unit to be collected as part of the GRI's pipeline member companies' tariffs. This Committee is aware of GRI's research program and strongly supports an active cooperative R&D program on the part of the natural gas industry.

In your role as Commissioner, I hope you can assure me that you will recognize the importance of an effective, industry-wide R&D program if we are to realize the potential role for natural gas in the national energy mix. I hope you will take an interest in ensuring the viability of the GRI program. Do you support a comprehensive gas industry R&D program?

Answer. Good information is the fundamental ingredient in any decisionmaking process. Without information generated from research and development we can neither learn from the past nor plan for the future. I am committed to all R&D activities which are financially supported by sources outside of the government. The research information provided by sources such as GRI, recognizing inherent biases, can be compared against internal information to highlight problem areas. I will take the appropriate interests in assuring the viability of the Gas Research Institute (and other) programs so long as the budget process is sufficiently reviewed to eliminate unwarranted costs or other similar abuses.

ADDITIONAL QUESTION FOR THE RECORD

FROM SENATOR J. BENNETT JOHNSTON

FOR CHARLES G. STALON

(1) I am disturbed by information I have received concerning FERC's use of Probable Maximum Flood ("PMF") methodology to assess the safety of licensed dams. From what I am told, this method of judging risk to dams does not do what its name implies. That is, it does not calculate the probability that a given maximum flood will occur and thus leads to absurd results.

For example, the probable maximum flood for one project in Wisconsin has been calculated to occur once in 35 million years, and yet under the PMF methodology this design standard would have to be met. Both the National Academy of Sciences and the Bureau of Reclamation have rejected the PMF methodology because of its unrealistic projection of risk.

In light of these facts, would you be willing to support a review, with industry and public participation, of the appropriateness of using the PMF standard?

(1) ANSWER:

As the factual predicates involve questions of technical expertise which I do not possess but which reside in the Office of Hydropower Licensing (OHL), I have asked that office to review and comment on thse factual predicates. Their response is as follows:

> The Commission staff's published engineering guidelines include design criteria for dam safety. The procedure for determining the appropriate criteria for a particular dam (known as the incremental damage procedure) does allow for risk, where that risk is borne solely by the dam owner, and downstream inhabitants are not placed in jeopardy. The PMF is thus not applied in all cases. However, where failure of the dam would entail loss of life, the Commission staff has determined that the PMF is the appropriate design criterion and fulfills the Commission's obligation to ensure public safety at licensed projects.
>
> The methodology used by the FERC is also utilized by Federal agencies, including the Corps of Engineers and Bureau of Reclamation. The methodology is also supported by the Interagency Committee on Dam Safety in its report titled Federal Guidelines for Selecting and Accommodating Inflow Design Floods for Dams. The use

of PMF, as a design criteria where loss of life due to a dam failure is considered unacceptable, is also recommended by reputable consulting firms, most industry experts, and many well respected organizations, such as the U.S. Committee on Large Dams, International Commission of Large Dams, National Research Council, and American Society of Civil Engineers (ASCE). In recent reports published in 1985 and 1988 by the National Research Council and the ASCE, the methodology used by the FERC for determining spillway designs was fully supported. Flood events have occurred that approach estimated probable maximum floods. Therefore, although rare, a PMF is not so remote a possibility that it can be ignored in establishing dam safety criteria where loss of life is a concern. Further, it is our understanding that the National Research Council and Bureau of Reclamation endorse dam safety criteria similar to the Commission's criteria.

Experts agree that the calculation of a flood return frequency in excess of the period of record cannot be computed reliably. Since the period of record in most river basins does not exceed 50 to 75 years, estimates of flood probabilities over an extended period of time, e.g. in excess of 250 years, have no technical basis, and therefore should not be used as a design standard, particularly where loss of life is a factor.

From my viewpoint as a Commissioner, it appears that there is some significant difference of opinion as to the nature and impact upon licensees of the FERC methodology for assessing dam safety. (I would refer you, in this regard, also to the staff-provided responses to Senator McClure's questions to me on the dam safety issue). As that disagreement appears to go to matters of a highly technical nature, I would strongly endorse your suggestion of a review, with industry and public participation, of the propriety of using the PMF standard. However, I would urge, as a first step at least, and perhaps as the only necessary step, the notion of an informal meeting or series of meetings of the technical experts of OHL and the various interested parties in order to identify why such apparently dramatic differences of view exist on what appear to be largely factual questions. OHL staff informs me that it is common practice to meet with individual licensees, industry representatives, trade groups and research organizations, and the Intraagency Committee on Dam Safety to review FERC's dam safety criteria and to assure that they remain in sync with advances made by other agencies in this area. Such a meeting or series of meetings at least should help to isolate whether and where there are serious policy questions relating to the FERC's dam safety criteria which the Commission should review. As to the substance of the apparent dispute, I would make only one point.

In principle, a probability estimate of the adverse event (dam "failure") is always to be preferred when evaluating costs of such a "failure." Probable Maximum Flood may or may not be translatable to such a measure. In the Wisconsin example used in the question it purportedly does translate to such a measure, and the probability measure is absurdly small. In most cases, however, the historical and climatic data is of low quality and the probability measure of dubious value. In this context, the current FERC approach, with its greater flexibility and opportunities for compromise may be the best the state of data allows. An alternative approach that formalizes and makes explicit the probability estimate actually used might serve to encourage efforts to improve the quality of such estimates.

ADDITIONAL QUESTIONS FOR THE RECORD

FROM SENATOR WENDELL FORD

FOR CHARLES G. STALON

Recurring concerns have been voiced over nonadherence by FERC's legal and technical staff to the Commission's separation of trial and advisory functions rule.

(A) It is my understanding that in the electric rate, natural gas, and oil areas, many supervisory and non-supervisory technical personnel play a major participatory and strategy development role in administrative trial proceedings, including settlement conferences.

Would it be your practice to identify and preclude such personnel from advising the Commission on the merits of litigated cases or certified settlements? If not, how would you insure compliance with the separation of function rule by technical personnel?

(A) ANSWER:

The Commission's separation of functions rules bar a staff member from combining the role of trial advocate or witness in an administrative adjudication with the role of advisor to the Commission in the same or a factually related case. Commission technical personnel who take part in the conduct of a trial -- whether in drafting testimony, developing trial strategy or appearing as witnesses -- are prohibited from advising the Commission on the merits of the same proceeding. It is my opinion that prohibiting employees that have taken an adversarial role in a proceeding from advising the Commission is a necessary component of the strict separation of functions regime under which the FERC operates. Because I believe the FERC pays a considerable price in terms of quality of substantive decisionmaking in order to maintain this doctrine, I certainly do not believe that its perceived benefits should be undermined by lax compliance with its requirements. Accordingly, I favor strict enforcement of those requirements, including the above-mentioned prohibition, as long as the FERC operates under the doctrine.

As a practical matter, however, it is impossible for me, as an individual Commissioner, to identify Commission personnel who may have violated these standards. The responsibility for insuring compliance with the separation of functions rule rests with the Chairman, as the administrator of the agency, and with the Directors of the various offices. I, in short, must assume that the personnel providing me with advice are doing so legally.

(B) FERC's office of General Counsel is organized into separate advisory and litigation units to implement the separation of functions rule. However, FERC's General Counsel and Associate General Counsels supervise both trial and advisory legal staff. If such supervisory personnel provide evidence or discuss with legal or technical trial staff, the conduct of a particular ongoing administrative trial or trial strategy, how would you ensure against being advised by the General Counsel or Associate General Counsels in the same proceeding or factually related case?

(B) ANSWER:

The separation of functions principle is not absolute. In adopting the Administrative Procedure Act, Congress consciously refrained from imposing a rigid wall of separation that would have barred staff members from taking an advocacy role in one case and an advisory role in a different case. Congress recognized there must of necessity be some central direction for all elements of the staff to assure that the entire staff is working to further the goals and policies of the Commission. The litigation role of the General Counsel and the Associate General Counsels is limited to establishing broad litigation policy, setting general priorities, and providing direction on administrative and personnel issues. These senior officials are prohibited from supervising the actual conduct of any particular adjudication and cannot discuss evidence or strategy in a particular case with the trial staff. In the event that a senior manager in the Office of the General Counsel should decide to participate in the conduct of a particular trial, he or she would be barred from serving as an advisor to the Commission in that case.

As acknowledged in response to part A, I do not have independent ability to monitor the actions of Commission staff.

(C) Would you be prepared to support assignment of a FERC employee to overseeing strict compliance with the separation of functions rule by both legal and technical staff?

(C) ANSWER:

As suggested in response to parts A and B, the Chairman and the Directors of the various offices are currently assigned the responsibility for overseeing strict compliance with the Commission's separation of function rules. To my knowledge this system has functioned adequately. If, however, it was shown that the present system was not effective, I would support any restructuring necessary to assure compliance with the Commission's separation of functions rules.

Senator James A. McClure
Questions for Federal Energy Regulatory Commission Nominees

Commission Authority to Review BPA Rates

In 1980 Congress passed the Pacific Northwest Electric Power Planning and Conservation Act. The Act was passed following significant and lengthy deliberations in both the House and the Senate. The Act redefined the review authority of the Commission regarding BPA rates. In the Act, Congress clearly departed from the past pattern of Commission review in favor of a limited, oversight role.

Congress withdrew rate design and cost allocation issues from Commission review of BPA' firm power rates and replaced this review BPA's firm power rates (a) recover BPA's costs and (2) repay the U.S. Treasury. For BPA's nonfirm rates, Congress provided additional not expand, the Commission's review authority over nonfirm rates. The trade-off Congress made was to limit the commission's review authority and to impose on BPA more stringent and complex ratemaking provisions as found in section 7 (i).

Congress' enactment of the Northwest Power Act was thoughtful and deliberate, and Congress knew what it was doing. What should be obvious in Congress' enactment of the Act is the clear absence of any transfer of any Federal Power Act standards on either BPA ratemaking or Commission review. (Remember, the Commission uses its FPA procedural rules in 7(k) hearings). Recently, the Commission has taken some actions that do not seem consistent with it statutory authority for review of BPA rates.

(1) Are you aware that Congress has specifically defined the Commission's authority to review BPA's rates under the Northwest Power Act and that this authority does not include any review under the Federal Power Act?

(1) ANSWER:

Yes, I am aware that the standards by which the Commission is to review BPA rates in its "confirmation and approval" role under the Northwest Power Act are those set forth in or contained by reference in section 7 of that Act, and not those contained in the Federal Power Act. Indeed, after four years on the FERC, I have reviewed and voted upon numerous FERC decisions applying the various section 7 standards and I do not recall any effort to import Federal Power Act standards, such as the "just and reasonable" standard, into review of BPA rates. To the contrary, I have been struck by the difference between the relatively narrow scope of review of BPA rates under the Northwest Power Act and the FERC's broad authority over utility rate filings under the Federal Power Act, and I have tried to encourage and approach that reflects this difference. For instance, I have argued against applying to BPA's extra-regional rates a traditional Commission caution in approving long-term rates without opportunity for periodic review. I have argued that greater reliance should be placed upon BPA's business judgment that a portfolio of short- and long-term arrangements would provide the best prospects in the long term of assuring timely repayment of the federal investment in the Federal Columbia River Power System.

(2) Are you aware that the Northwest Power Act does not even mention the Federal Power Act in describing the standards under which the Commission is to approve and confirm BPA's rates?

(2) ANSWER:

Yes, I am so aware. As you correctly note, however, the Commission has, through rulemaking, replicated some of the procedures of the Federal Power Act in its review process. That should not affect the standards to be applied.

Review of Power Exchanges

I note that recently the Commission has also made inquiries in to BPA's capacity-for-energy exchanges of power. As you know, Congress has for over 50 years authorized BPA to enter into exchanges of power with other utilities, both inside and outside the region. Exchanges are mutually beneficial and have historically, permitted BPA and the utilities to realize operational efficiencies. But exchanges are not sales of power and thus do not require rates subject to Commission review.

Are you aware that BPA's exchanges with regional and extraregional utilities are not sales of power and do not require rates, so the Commission has no jurisdiction to review exchanges?

ANSWER:

Although I understand the matter has never reached the Commission itself for decision, I am informed that the Commission has never asserted jurisdiction on the basis that true exchanges of power require rates subject to FERC confirmation and approval review; and that this position was implicitly confirmed by the FERC in the context of a WPPS-related legal settlement. However, I am also informed that the Commission has not been faced with the issue of whether true exchanges are involved or whether "exchange" arrangements may in fact be sales in part, e.g., through "true-up" provisions that call for money payments. Whether a true exchange or partial sale is involved does not appear to be a question easily answered outside the context of a specific case. As a general matter, however, if it is clear that the essence of a transaction is an exchange, I do not believe I would favor the FERC asserting jurisdiction simply because tangential elements of the transaction might effect a partial sale.

BPA's Ability to Repay Treasury

BPA has strict statutory requirements to recover its costs and repay the U.S. Treasury. Historically, the Commission has rendered decisions which assist in protecting the U.S. taxpayers' investment in the Federal Columbia River Power System.

Recently, however, it has been recommended that the Commission take away from BPA its flexibility to charge above-cost for its nonfirm energy--in order to offset its below-cost sales--so that on average BPA recovers the full cost of producing nonfirm energy. Such a recommendation guarantees BPA an underrecovery of costs if it cannot offset sales made at prices which are below cost and which are often the only prices the market will bear. I find it difficult to understand how BPA can adequately recover its costs and repay Treasury if the Commission, in the course of regulating BPA's rates, tries to second-guess BPA's marketing decisions in a volatile energy market place.

As a Commissioner, will you affirm the Commission's commitment to our nation's taxpayers and electric ratepayers in the Pacific Northwest--a commitment which in the past has enabled BPA to recover its costs and repay the Treasury?

ANSWER:

Yes, I will certainly affirm the FERC's commitment to exercise its review functions in a manner that will enable BPA to recover its costs in the long-term and to repay the Federal Treasury. Indeed, I see the major thrust of FERC decisions since I have been on the Commission to be designed to achieve exactly that goal -- initially by insisting upon some consistency in BPA rate methodology to assure effective review of BPA's progress in meeting that goal and by admonishing BPA for shortfalls in that regard; more recently by granting BPA the rate flexibility to market effectively in increasingly competitive extra-regional markets or to customers who are extremely price-sensitive in the face of international competition, such as the aluminum producers.

As to the second paragraph in your question, I am informed that the recommendation you refer to may be that contained in an initial decision of an administrative law judge still pending exceptions. Because this case has not yet reached the Commission for decision but is within the FERC's quasi-judicial processes, I am not able, nor do I believe I should, comment on the case. However, I will, of course, be conscious of the concerns you express which I would anticipate would be detailed in the record of that case.

BPA-California Relationship

The Pacific Northwest-Pacific southwest Intertie was built over 20 years ago, electrically connecting California to the Pacific Northwest. The Intertie--both AC and DC--has allowed transfers of electricity to occur between the two regions which have provided tremendous benefits to ratepayers throughout the West.

Electric energy sales to California utilities represent about 20 percent of the Bonneville Power Administration's revenues and, working together, BPA and California utilities have saved consumers in both regions billions of dollars over the years. This partnership has also helped to assure repayment of the U.S. taxpayers' investment in the Columbia River Power System.

I am troubled, however, by recent Commission actions which could threaten this historic partnership. A recent Commission order could be interpreted to suggest that BPA should price its power sold to California at such a low rate that there would simply be no incentive to sell to California. This would obviously be an unwise disservice to both regions. I strongly urge you to look closely at this issue and to work to take actions that can allow mutually beneficial power transfers between the two regions to continue.

In this same light, I would note that BPA and Southern California Edison Company have recently announced a proposed 20 year transaction. This transaction is extremely important not just because it is a contract that clearly benefits ratepayers in both regions, but because it seems to be a major step toward improving the business climate between the Pacific Northwest and California. I would also just note that BPA had last January entered into 20 year agreements with the cities of Burbank, Glendale, and Pasadena.

(1) Would you be generally supportive of promoting mutually beneficial transactions between the Pacific Northwest and Pacific Southwest regions?

(1) ANSWER:

Yes, I will be generally supportive of promoting mutually beneficial transactions between the Pacific Northwest and the Pacific Southwest regions, subject to the standards for FERC review in section 7 of the Northwest Power Act. Given the diversity in power supply sources, costs of production and loads, I believe that an efficient market for inter-regional electricity trade should be encouraged. As to your paragraph immediately preceding this question, I agree that long-term contracts should, as a general matter, play a role in achieving this beneficial goal; and, as I have elaborated in my answer to your questions on Commission authority to review BPA rates, I have tried to encourage the Commission's receptivity to such contracts.

(2) If confirmed, will you support and encourage the continuation of this vital energy partnership between the two regions?

(2) ANSWER:

Yes, if confirmed, I will, for the reasons above, continue to support this partnership insofar as this is appropriate under the Commission's section 7 confirmation and approval function. I am not aware that any recent Commission orders require that BPA price its power sold to California at rates so low as to provide no incentive for the sale. However, I can assure you that, as you urge, I will look very closely at this issue should it be presented to us in any case.

Natural Gas Open Access Transportation

(1) On October 9, 1985, the Commission established its natural gas open access transportation program in Order No. 436. On June 23, 1987, the U.S. Court of Appeals for the D.C. Circuit vacated Order No. 436, largely on the grounds that it failed to address the take-or-pay problems of pipelines, and remanded the Order to the Commission for further proceedings. On August 7, 1987, the Commission issued Order No. 500 as an interim replacement for Order No. 436.

It is now nearly three years since the Commission originally established its open access transportation program, and it is more than one year since that Order was vacated and interim regulations were put into place.

Why haven't final rules yet been established for the open access transportation program? When can we expect that to occur?

(1) ANSWER:

I do not know why final rules have not yet been established for the open access transportation program. The Chairman has assumed sole responsibility for scheduling decisions. Furthermore, I do not know when final rules will be established. I would add, however, that the Chairman has stated publicly that it is her intention to schedule action on final rules before the end of this calendar year.

(2) Which pipelines have elected to become an open access transporter, and which have not? Of those who are an open access transporter, which are doing so pursuant to a blanket certificate?

(2) ANSWER:

INTERSTATE PIPELINES THAT ARE NOT PROVIDING OPEN ACCESS TRANSPORTATION

Alabama-Tennessee Natural Gas Company
Algonquin LNG, Incorporated
ANR Storage Company
Bayou Interstate Pipeline System
Bear Creek Storage Company
Black Marlin Pipeline Company
Bluefield Gas Company
Border Gas, Inc.
Boundary Gas, Inc.
C.B. Gas Gathering, Inc.
Canyon Creek Compression Company

Chandeleur Pipe Line Company
Cimarron Transmission Company
Columbia LNG Corporation
Commercial Pipeline Company, Inc.
Consolidated System LNG Company
Distrigas Corporation
Distrigas of Massachusetts Corporation
East Tennessee Natural Gas Company
Eastern Shore Natural Gas Company
Florida Gas Transmission Company
Freeport Interstate Pipeline Company
Frontier Gas Storage Company
Gasdel Pipeline System Incorporated
Granite State Gas Transmission, Inc.
Great Lakes Gas Transmission Company
Hampshire Gas Company
High Island Offshore System
Honeoye Storage Corporation
Inland Gas Company, Inc., The
Interstate Power Company
Jackson Prairie Underground Storage Project,
  Washington Natural Gas Company as Operator
Jupiter Energy Corporation
K N Energy, Inc.
Lone Star Gathering Company
Michigan Consolidated Gas Company
Mid-Continent Gas Storage Company
Midwestern Gas Transmission Company
Mississippi River Transmission Corporation
Mitco Pipeline Company
National Fuel Gas Supply Corporation
North Penn Gas Company
Northern States Power Company
Northwest Alaskan Pipeline COmpany
Orange and Rockland Utilities, Inc.
Overthrust Pipeline Company
Ozark Gas Transmission Company
Pacific Gas Transmission Company
Pacific Interstate Offshore Company
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company
Pelican Interstate Gas System
Penn-Jersey Pipe Line Company
Penn-York Energy Corporation
Point Arguello Natural Gas Line Company
Raton Gas Transmission Company
RMNG Gathering Company
South County Gas Company
Southern Energy Company
Southwest Gas Corporation
Southwest Gas Storage Company
Southwest Gas Transmission Company

Stingray Pipeline Company
TCP Gathering Company
Texas Gas Pipe Line Corporation
Texas Sea Rim Pipeline, Inc.
Transco Gas Supply Company
Trailblazer Pipeline Company
Trunkline LNG Company
Union Light, Heat and Power Company, The
U-T Offshore System
Urbana Corporation
West Texas Gas, Inc.
Western Gas Interstate Company
West Texas Gathering Company
Wyoming Interstate Company, Ltd.
Zenith Natural Gas Company

INTERSTATE PIPELINES THAT ARE PROVIDING OPEN ACCESS TRANSPORTATION

Algonquin Gas Transmission Company
ANR Pipeline Company *
Arkla Energy Resources
Blue Dolphin Pipe Line Company *
Caprock Pipeline Company
Carnegie Natural Gas Company
Colorado Interstate Gas Company *
Columbia Gas Transmission Corporation *
Columbia Gulf Transmission Company *
CNG Transmission Corporation *
El Paso Natural Gas Company
Equitable Gas Company (now Equitrans, Inc.) *
Gas Gathering Corporation *
Gas Transport, Inc. *
Kentucky West Virginia Gas Company *
Lawrenceburg Gas Transmission Corporation
Louisiana-Nevada Transit Company *
MIGC, Inc. *
Michigan Gas Storage Company
Mid Louisiana Gas Company *
Moraine Pipeline Company *
Mountain Fuel Resources, Inc. (now Questar Pipeline Company) *
Natural Gas Pipeline Company of America *
Northern Border Pipeline Company *
Northern Natural Gas Company *
Northwest Pipeline Corporation *
Ohio River Pipeline Corporation
Panhandle Eastern Pipe Line Company *
Phillips Gas Pipeline Company *
Ringwood Gathering Company (now Reliance Pipeline Company) *
Sabine Pipe Line Company *

Seagull Interstate Corporation *
Sea Robin Pipeline Company
Southern Natural Gas Company *
South Georgia Natural Gas Company
Superior Offshore Pipeline Company *
Tarpon Transmission Company *
Tennessee Gas Pipeline Company *
Texas Eastern Transmission Corporation
Texas Gas Transmission Corporation *
Transcontinental Gas Pipe Line Corporation *
Transwestern Pipeline Company *
Trunkline Gas Company *
United Gas Pipe Line Company *
Valero Interstate Transmission Company *
Valley Gas Transmission, Inc. *
Western Transmission Corporation *
Williams Natural Gas Company *
Williston Basin Interstate Pipeline Company

* Pipelines which have accepted a blanket certificate.

(3) What is the current status of pipeline take-or-pay exposure and prepayments of? Please provide data for the past five years on a pipeline by pipeline basis.

(3) ANSWER:

The latest summary I received, which summarized some of the pertinent data received by the Commission in response to the Take-or-Pay Data Request issued on August 26, 1987, in Docket No. RM87-34, dated July 11, 1988, focused mainly on 1986 data. Thirty-one pipelines filed detailed data on about 10,500 individual contracts, as well as providing certain company-total data.

For the 31 pipelines that were required to file take-or-pay data, they were required to file detailed contract-by-contract information for all contracts that had a deliverability in excess of 1 Bcf per year between January 1, 1983 and June 30, 1987. Additionally, the pipelines were required to provide the same detailed information on other contracts to the extent that the reporting of additional contracts was necessary to cover 90 percent of the respective pipeline's unresolved take-or-pay obligations at the end of 1986.

According to information reported by the pipelines, as of July 1987 about $14 billion of take-or-pay had been satisfied by settlements between pipelines and producers. In addition, the pipelines reported that about $700 million had been paid to producers during the reporting period as prepayments for gas to be taken at a future date. The pipelines also reported that about $10.5 billion of take-or-pay obligations were unsatisfied (i.e., not satisfied by prepayments or otherwise settled with producers) at the end of 1986.

Commissioner Trabandt and I have requested that the Commission's staff provide the Committee with (1) the take-or-pay data prepared for Chairman John Dingell of the House Energy and Commerce Committee in April 1987, (2) the summary of the Order No. 500 take-or-pay survey and (3) a summary of the take-or-pay data in individual pipeline filings in the Order No. 500 direct billing cases. This information is being forwarded to the Committee by Commissioner Trabandt and I would respectfully refer the Committee to it in response to this question. I would like to emphasize that the material provided by the staff has not been reviewed by the full Commission and does not represent the analysis or views of the Commission. I hope this arrangement will be satisfactory.

(4) Have any pipelines experienced a worsening of their take-or-pay problems as a result of becoming an open access transporter?

(4) ANSWER:

I believe interstate natural gas pipelines did experience a worsening of their take-or-pay problems after becoming open access transporters. Since that time, however, the Commission has established the cross-crediting mechanism and individual pipelines have renegotiated, at least in part, their high-cost high take-or-pay gas supply contracts through the Commission's buy-out and buy-down settlement procedure. I have not received a Commission staff analysis of the consequences of these or other actions which have subsequently affected pipelines take-or-pay exposure and prepayments and therefore cannot determine whether this problem persists at this time.

FERC "Electricity Strategy"

(1) In your opinion, does the record established by the Commission on the proposed regulations governing independent power producers (Docket No. RM88-04-000), governing bidding programs (Docket No. RM88-05-000), and administrative determination of full avoided costs (Docket No. RM88-06-000) warrant and justify proceeding with final regulations in these matters?

(1) ANSWER:

It would be premature for me to proffer an opinion at this point on what regulations are justified by the public record of the three NOPRs, which was only recently completed, is immense, and which I have not yet reviewed. However, I do believe parts of the NOPR package can be considered separately and I would favor quality and a deliberate pace over quantity and undue haste. However, if FERC were to prioritize the order in which it were to address the NOPRs, I believe it should first consider the "IPPs" and "ADFAC" NOPRs. The IPPs NOPR essentially involves an amendment of some of FERC's Federal Power Act regulations to reflect generic basis standards, already largely developed on a case-by-case basis over the last several years, for relaxation of these regulations for certain types of entity. The "ADFAC" NOPR, which essentially comprises a clarification of FERC's existing rules and one commonsense extension that would give QFs the option of installing their own needed interconnection and related transmission facilities if they believe the price utilities quote to build them is excessive. The bidding NOPR, which raises more complex questions of implementation, especially at the state level, could proceed at a slower pace.

(2) What has delayed the Commission's issuance of a notice of proposed rulemaking regarding transmission pricing?

(2) ANSWER:

The issue of reform of the Commission's transmission pricing regime was centrally raised in the 1985 electricity Notice of Inquiry (NOI). At that time, and on numerous occasions subsequently, I urged that the Commission proceed with generic consideration of the issues raised in the NOI, especially the transmission pricing issue. While I stressed the complexity of this issue, I also argued that this underscored the necessity of staff proceeding to analyze it rather than delay its consideration. I have subsequently expressed considerable frustration with the FERC's failure to follow up on the NOI record in a timely fashion. In my testimony before Chairman Sharp's House Subcommittee on Energy and Power in September 1987, and before your Committee last February, I reiterated my belief that the FERC should proceed with consideration of the NOI issues at the earliest opportunity as these present questions at least as important and urgent as those now contained in the three NOPRs referred to in your first question, if not more so. However, I do recognize that the "IPPs" NOPR can be viewed as a discrete part of the broader bulk power market reform contemplated in the NOIs. At the time of issuing the three NOPRs, I pushed very hard internally for an early review of the transmission pricing issue.

In a collegial body such as FERC, in which I do not set the agenda for consideration of issues, it is not easy to answer your specific questions of why a transmission pricing NOPR has not been issued. Part of the reason, I believe, lies in the considerable turnover of Commission membership. Chairman O'Connor resigned at just about exactly the time of the last NOI hearings. I suspect Acting Chairman Sousa did not feel inclined to initiate a major reform effort in that role, especially with two new commissioners who did not display obvious enthusiasm for proceeding generically with electricity reform. When the new Chairman took office some eight months later, it took her some time to recognize the value of the NOI record, which was concluded long before she took office. By the time the urgency of the NOI issues was finally recognized by the Commission, the process that led to the current NOPRs was already underway. However, I am somewhat more heartened today by the Commission's apparent recognition of the importance of those issues and the relevance of the NOI record; and by my understanding that the Commission staff is analyzing the transmission issues. To date, I have not seen any transmission proposal from staff that addresses the serious and complex issues the area presents. Given the nature of those issues, I do not want to speculate as to when this might be forthcoming.

(3) (a) Is the Commission seeking to implement through individual cases (e.g, Ocean State Power, Docket No. ER[illegible]8-478-000) the policies proposed in the "electric strategy" NOPRs?

(3) ANSWER:

(a) No, I do not believe the Commission is attempting to implement changes proposed in the three NOPRs through individual cases except to the extent these cases represent quasi-judicial lines of development already underway, e.g., in the area of granting waivers from Federal Power Act regulations to generating entities that clearly possess no market power or in permitting

QFs under PURPA to qualify transmission facilities necessary to get their own power to the utility grid.

Moreover, for the reasons elaborated in my answer to question (3)(b) below, I would resist any effort to attempt to address the wide range of cross-cutting issues in the NOPRs in the context of individual cases, even if happenstance presented the Commission with the filings to permit such an exercise.

The Ocean State filing was first by the Commission accepted in Docket No. ER87-150 on February 9, 1987, 1/ long before the three NOPRs or even the notion of PURPA reform were contemplated by the Commission. That filing was approved subject to the condition that Ocean State make a supplemental filing to submit a rate of return on equity before the expected in-service date of the unit. The case to which your refer, Docket No. ER88-478, is the Commission's decision on that supplemental filing. To a significant degree, the Ocean State rate filing is based on variations of traditional "cost-based" formula. To the degree the rate of return on equity formula departs from traditional ratemaking formulae, the decision is based in large part on a series of Commission precedents, dating back to the St. Joe Mineral Corporation case 2/ in 1983,which recognize the propriety of departing from traditional "cost-based" formulae in certain circumstances. Of course, it would seem improbable that the Commission's thinking in the 1988 Ocean State case was not influenced at all by what has been learnt in the NOPR process. However, the most relevant NOPR, the IPPs NOPR, is in large part an effort to codify the principles established in the St. Joe line of cases and to provide a basis for applying those principles generically. Moreover, it appears that recent cases, such as Turlock Irrigation District, 3/ were more influential on Commission thinking than the NOPRs. In my view, however, the Ocean State decision is based very much on the distinctive factual situation presented therein.

1/ 38 FERC ¶ 61,140 (1987).

2/ 23 FERC ¶ 61,208 (1983)

3/ 43 FERC ¶ 61,406 (1988).

(3) ANSWER:

(b) and (c)

Generally speaking, I do not believe that individual cases provide the appropriate forum for establishing generic policy, which often embraces broad, industry-wide issues. Seldom are the issues framed with sufficient breadth and clarity. Seldom are all affected parties given adequate opportunity to participate; and where the FERC has attempted to provide for this participation, it has ended up with large, unmanageable and dated records on which effective decisions are virtually impossible.

However, I should stress that, in a growing number of cases in the electricity area, the Commission has no effective option but to consider generic policy issues in individual filings made before it or in cases that require reasonably expeditious Commission decisions. Many of these issues simply have to be decided and cannot be swept under the rug until some time in the future at which the Commission feels comfortable addressing the generic policy issues. My perception, gained from developments in the industry and from the pattern of filings before us, is that many of the issues in the NOPRs and in the 1985 NOI have become quite urgent. My sense is that, if the Commission does not act to address them soon, however complex and politically troublesome they may be, the Commission will face the danger of its regulation seriously lagging behind the reality of developments in the industry. This would present the danger of its regulation potentially acting as a serious barrier to economic pressures that the industry become more efficient and permit some of its major customers, such as the industrials, to compete more effectively in intensely competitive international markets.

This is why I have pushed so hard in the effort that led to the 1985 NOIs, and since, that the Commission begin to seriously address the numerous important issues presented by current and developing realities in this industry. While reasonable men can argue about exactly where to start in what is likely to be a complex and lengthy reform process, my emphasis has been that we start soon at some reasonable point in the spectrum of issues rather than debate ad nauseam where exactly is the best place to start in a complex of inevitably interrelated issues. That has been the basis for my support of the current NOPR package.

Hence, I have been a vocal critic of delay for the sake of delay, or delay because the Commission does not yet feel comfortable addressing some difficult questions presented.

However, I not believe that quality should not suffer in order to meet artificially created deadlines.

Furthermore, I believe that any effort by the Commission to unduly delay consideration of the NOPR and NOI issues would probably be futile, perhaps even counterproductive. If the issues are not dealt with generically, they will be presented to the Commission, probably with increasing frequency, in the context of individual cases that will, for the reasons stated above, typically not provide the best vehicle for their resolution.

Another probable outcome, if FERC does not provide an adequate national forum to address these issues, many of which critically affect state interests, is that state regulators will be confronted with the issues. This might occur in contests that are far from ideal for resolving issues that may have interstate and national implications. To my mind, that would constitute an abdication of FERC's responsibilities under the Federal Power Act and under PURPA.

Oil Pipeline Regulation

(1) What can the Commission do to streamline and reduce the burden of oil pipeline regulation?

(1) ANSWER:

The Commission's ability to streamline and reduce the burden of oil pipeline regulation is limited. As I testified before the Subcommittee on Energy and Power, Committee on Energy and Commerce, U.S. House of Representatives, 4/ I do not believe that the Commission can reduce the level of oil pipeline regulation to the optimal level desirable given existing laws and regulations.

Given the existing laws and regulations, however, I believe the Commission took a positive step in that direction recently in Buckeye Pipe Line Company, L.P. (Buckeye). 5/ There the Commission directed the administrative law judge to determine whether Buckeye lacks significant market power in the relevant markets for which it seeked reduced regulatory oversight of its proposed rate increases. The Commission thus gave Buckeye an opportunity to show that strict ratemaking scrutiny under the Commission's Opinion No. 154-B methodology 6/ is not warranted.

It is, however, too early to determine whether this latest attempt to reduce the regulatory burden on oil pipelines will be successful. In fact, the Commission has not yet acted on the rehearing request stemming from this order.

4/ Testimony of Commissioner Charles G. Stalon, Federal Energy Regulatory Commission, before the Subcommittee on Energy and Power, U.S. House of Representatives, on H.R. 1155 (Subtitle D of Title IV), Oil Pipeline Deregulation, Washington, D.C., March 30, 1988.

5/ See, 44 FERC ¶ 61,066 (1988).

6/ Williams Pipe Line Co., 31 FERC ¶ 61,377 (1985), modified and clarified in Williams Pipe Line Co., 33 FERC ¶ 61,327 (1985).

U.S.-Canada Free Trade Agreement

(1) Would the enactment of the U.S.-Canada Free Trade Agreement have any affect on, or require the Commission to make any changes to its natural gas regulations, particularly Opinion No. 256 or Order No. 500?

(1) ANSWER:

While I am not an expert on the U.S.-Canada Free Trade Agreement, I understand that the key principle that should guide the actions of the Commission to ensure compliance with that Agreement is that Commission actions should not discriminate against Canadian supplies or suppliers on the basis of nationality. I do not believe the Agreement would require the Commission to make any changes to its natural gas regulations. In particular, Opinion No. 256 addressed the level of risk U.S. interstate pipelines could directly pass on to their customers through the "as billed" rule. It did not hold that U.S. interstate pipelines could not sign gas supply contracts of their choosing with Canadian natural gas suppliers. Furthermore, the Administration has stated to Congress that the Opinion No. 256 decision is not in conflict with the U.S.-Canada Free Trade Agreement. 7/ As for Order No. 500, it is my belief that this Order, by providing nondiscriminatory access to transportation, will in fact help facilitate freer natural gas trade between the United States and Canada and would not be inconsistent with the provisions of the Agreement. Again, I understand that the Administration has stated to Congress that it views Order No. 500 as consistent with the Agreement. 8/

7/ Statement of Administrative Action on The United States-Canada Free Trade Agreement Implementation Act at page 56.

8/ Id.

DAM SAFETY

(1) What criteria does the Commission use to evaluate the adequacy of dams to handle floods? How was that criteria developed, and how long has it been in use?

(1) ANSWER:

The criteria used by the FERC staff is generally known as the incremental damage or assessment approach and was promulgated in Regulations issued in 1981. The Commission's Order No. 122, issued January 21, 1981, states that the adequacy of a spillway must be evaluated by considering the hazard potential which would result from failure of the project works during flood flows. If failure of the project works would present a hazard to human life or would cause significant property damage, the project works must be designed to either withstand the loading or overtopping which may occur during a flood up to the probable maximum flood, or to a lesser flood level where a failure would not constitute a hazard to downstream life and property. This methodology (i.e., the incremental damage or assessment approach) develops what is commonly known as the inflow design flood, which in effect dictates the criteria for spillway design and in many instances results in criteria substantially less than would be required to accommodate the probable maximum flood.

This methodology was developed using state-of-the-art analytical methods for estimating flood levels due to dam failures. The OHL interprets the FERC policy contained in the regulations to impose only those dam modifications that are needed to adequately protect downstream life and property.

(2) Since the development of that criteria, have there been any developments (e.g., studies, reports, analyses) which would suggest that this criteria is no longer appropriate or valid?

(2) ANSWER:

The answers to the questions you ask in this section lie within the technical expertise of the Commission staff in the Office of Hydropower Licensing (OHL). The OHL has provided the following answers, which, on review, appear to adequately provide the information you request.

The FERC staff is not aware of any studies or reports that demonstrate the inappropriateness of its criteria. Most agencies and industry experts agree that the FERC criteria is appropriate. For instance, subsequent to issuance of the FERC's regulations, the Corps of Engineers, U.S. Bureau of Reclamation, and other agencies and organizations adopted similar design flood criteria. There have been additional studies and reports published by the Bureau of Reclamation and American Society of Civil Engineers that provide a methodology for assessment of the cost of physical property damage due to a dam failure. However, we are not aware of studies that evaluate the loss of life. As we have advised licensees, any studies that adequately support the conclusion to use a design flood less than the probable maximum flood will be considered with a view toward seeking the most cost-effective approach while ensuring adequate protection of life and property.

(3) As a practical matter, how is the criteria utilized by the Commission when reviewing individual dams?

(3) ANSWER:

Where loss of life due to a dam failure is a factor, it would be an abrogation of the Commission's responsibilities under Section 10(c) of the Federal Power Act to not adequately protect life, health, and property. Accordingly, where loss of life could occur, the Commission's staff requires design floods up to the probable maximum flood as a design criteria. As a practical matter, if licensees conduct the appropriate analyses using the FERC methodology, i.e., the incremental damage approach, it can often be shown that the design flood dictates less stringent criteria than would the probable maximum flood.

It should be noted that many spillways that require modification by FERC are so deficient that modifications would be required even if the criteria suggested by some industry representatives, which OHL staff believes would place the lives of the public at risk, were used.

(4) Under what circumstances does the Commission use a cost-benefit analysis in determining whether or not changes should be ordered to be made to dams?

(4) ANSWER:

The Commission's staff has accepted spillway designs that consider the cost of property damage downstream. Where the costs of property damages do not warrant modifications, such modifications are not required.

Each dam site and river basin have unique physical characteristics. Therefore, if a licensee is willing to conduct appropriate studies on downstream effects from a dam failure, the incremental damage methodology criteria used by FERC can be used to define the limits of damages and a measure of the cost-effectiveness of required modifications.

(5) How many dams has the Commission reviewed to determine whether or not they meet the Commission's flood criteria?

(a) How many of these has the Commission found to satisfy the criteria? Have all of these been notified of that determination?

(b) How many are still under review?

(c) How many has the Commission found to not satisfy the flood criteria? Please identify and give the Commission's best estimate of the cost required to make the necessary improvements. Have any of these determinations been appealed to the Commission?

(5) ANSWER:

(a), (b), and (c)

The Commission has almost 2200 dams under its jurisdiction. Of these, less than 10 percent (about 200) have required modifications, including those needed to correct both stability and spillway deficiencies. All other dams have been determined to meet FERC staff's design criteria, and the licensees have been officially advised of our determinations. Approximately 35 of the projects with identified deficiencies have or had spillways inadequate to prevent overtopping of earthfill or rockfill dams. Overtopping has been identified as the number one cause of dam failures in the United States and throughout the world. Sixteen of these have had the deficiencies corrected to the satisfaction of OHL.

There are currently nineteen dams under review where the spillway has been determined to be inadequate to pass the inflow design flood. While final contractor bids are not available for all projects, licensees have estimated that the cost of modifications to these 19 projects will be about $48 million. It is again noted that even using the probabilistic methodology suggested by some industry representatives, most of the 19 dams would require modifications in any event.

It should be noted that industry for the most part supports the FERC criteria and that only one FERC dam safety order has ever been appealed to the Commission.

Questions for FERC Commissioner Charles Stalon
Senator Lowell Weicker, Jr.

(1) Commissioner Stalon, as you know FERC's Electric Notice of Proposed Rulemakings (NOPRs) has raised many concerns. In earlier hearings before this Committee you expressed your position about the rulemakings. On this subject would you please summarize your current assessment of the NOPRs, especially to the following issues:

- FERC's authority to preempt state determinations and laws establishing avoided cost,

- The impacts of the NOPRs upon states implementing competitive bidding systems,

- What aspects of the NOPRs, if not all, that could be pursued to final rulemaking and would be beneficial to the industry and consumers,

- Your assessment of the relevance of the Orange and Rockland case upon the consideration of the NOPRs,

- Your assessment of the constraints placed upon utilities by the Public Utilities Holding Company Act related to the NOPRs.

(1) ANSWER:

As with any proposals for reform in the context of an industry that has faced considerable economic uncertainty over the last decade, the FERC NOPRs have caused concern amongst some of the players in the electricity industry, enthusiasm amongst others. My current assessment of the NOPRs is that they have created a substantial and quite focused record on some issues that the FERC, and state commissions, should be addressing in the relatively near term. However, I do not believe the NOPRs need to be promulgated as an inseparable package; the reforms contemplated could be addressed in a series of discrete rules and in a time frame that permits their most careful consideration by the Commission and by affected interests. Because of the concerns expressed, I believe the Commission should ensure that any rules promulgated are the highest quality and reflect consideration of the concerns of all affected interests, such as the various private interests and those of federal and state agencies and regulators. In short, I would stress quality over quantity or speed.

However, I still believe that the reforms proposed, if supported by the record, would be part of an appropriate and probably long overdue response by federal and state regulators to some fundamental changes in the economics of the industry that have been evident for nearly a decade. These changes were identified in the context of FERC jurisdiction in the 1985 electricity Notice of Inquiry 1/ and in some major hearings in the Congress in 1986. Hence, the NOPRs represent a part, and probably not the major part, of a response to changes that have occurred or are already occurring. The NOPRs do not, as some have asserted, effect a major restructuring of the industry or its regulation. Moreover, delaying further, for the sake of delay, consideration of how regulators should respond to these changes would, in my view, be an abdication of FERC's direct regulatory responsibilities under the Federal Power Act and its equally serious responsibility for monitoring state implementation under Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

Indeed, I believe that if the FERC does not address these issues generically in the relatively near future, it will be forced to confront them in the context of individual cases. That trend is already very apparent in filings before the FERC over the last two years. In my view, individual cases seldom provide a satisfactory vehicle for consideration of broad industry-wide issues. Seldom are the issues framed with sufficient breadth and clarity. Seldom are all the affected parties given adequate opportunity to participate; and where the FERC has attempted to provide for this, it has ended up with large, unmanageable and dated records on which effective decisions are virtually impossible. Furthermore, if the FERC does not provide the generic federal forum to address these issues, many of which critically affect state regulation, this may force state regulators to deal with them in contexts which are not always appropriate to deal with matters that have both interstate and national implications. That, to me, would also be an abdication of FERC's responsibilities.

As a practical matter, however, it will take some time to develop quality reforms on the basis of the extensive record created in the NOPRs; and the new commissioners will need sufficient time to master that record. After that, I believe the Commission should proceed to consider those reforms suggested as appropriate by the record at a deliberate pace, but fully within the capabilities of the Commission to assure a quality product.

1/ Notice of Inquiry, Regulation of Electricity Sales-For-Resale and Transmission Service, Docket No. RM85-17-000; Phase I, issued May 30, 1985, reported at 31 FERC ¶ 61,228; Phase II, issued June 28, 1985, reported at 31 FERC ¶ 61,376.

As to the specific issues you raise:

(a) FERC has a clear responsibility under PURPA to establish the standards under which state implementation is to occur and to monitor that implementation and, when appropriate, amend those standards. Exercise of this responsibility led to the promulgation in 1980 of the "avoided cost" standard set forth in PURPA as that on which rates for purchases of qualifying facility (QF) power should normally be based. Any "preemption" of state determinations by FERC would, then, entail assuring that state ratemaking rules for purchases of QF power comport with this federal standard. However, this is not preemption in the normal constitutional law sense of federal authority preempting independent state authority. In this case, the FERC would be exercising its statutory responsibility to guide and monitor state implementation of a federal law.

(b) If promulgated in some form, I believe the "bidding" NOPR would clarify the conditions under which states may institute bidding systems as a legitimate exercise of their PURPA authority to set avoided cost-based rates for utility power purchases from QFs, although I believe such schemes can have a validity that transcends PURPA implementation. There is apparently some legal uncertainty as to whether and under what conditions such schemes would be a valid exercise of state implementation authority under PURPA; a FERC rule should resolve this. Depending on how detailed were the requirements prescribed by FERC for a valid bidding scheme, the NOPR might impose constraints on the form of any bidding scheme that states could adopt as implementation of PURPA. In its present form, the NOPR imposes relatively few requirements on states, but provides a good deal of non-binding guidance for state bidding schemes.

(c) Without a full review of the record, which is not yet complete, it is not possible, or probably appropriate, for me to identify specifically which parts of the NOPRs should or should not be promulgated. In the abstract, however, if FERC were to prioritize the order in which it were to address the issues in the NOPRs, I believe it should first consider the "IPPs" and "ADFAC" NOPRs. The IPPs NOPR essentially involves an amendment of some of FERC's Federal Power Act regulations to reflect on a generic basis standards, already largely developed on a case-by-case basis over the last several years, for relaxation of these regulations for certain types entities. The "ADFAC" NOPR essentially comprises a clarification of FERC's existing rules and one commonsense extension to give QFs the option of installing their own needed interconnection and related transmission facilities if they believe the price utilities quote to build them is excessive. Commission consideration of the bidding NOPR, which raises more complex questions of implementation, especially at the state level, could proceed at a slower pace.

(d) The Orange and Rockland decision 2/ on PURPA pricing stands for the proposition that FERC, in the exercise of its responsibility to oversee state implementation of PURPA, is not required to accept impositions by state legislatures of requirements that utilities subsidize QFs in pursuing their PURPA responsibilities. The decision, as I have interpreted it in my concurring opinion in that case, 3/ recognizes the Commission's ability to accept state-imposed subsidies for QF power where the Commission believes such subsidies are justified (e.g. as they may be in the case of waste disposal facilities, culm-fired cogeneration facilities or certain "alternative" technologies such as solar- or wind-induced generation). However, FERC does not have to accept dated, anachronistic blanket subsidies by ratepayers of all QFs, even gas-fired cogeneration, as a valid exercise of national energy policy in 1988. I should note that my interpretation of the majority opinion is at variance with that of some of my colleagues, who do not view FERC as having the ability to grant any deference to state subsidy impositions whatsoever. 4/

(e) I believe that the Public Utility Holding Company Act (PUCHA) presents serious barriers to the development of independent power producers (IPPs) by both utilities and non-utility generators. I suspect that most of these barriers impose costs on the development of a more efficient generation sector that outweigh the benefits of the perceived protections that PUCHA provides. Indeed, I believe that, for certain potential non-utility generators that could make a major contribution to a more efficient generating sector, such as the large engineering and construction companies, PUHCA provides an almost complete barrier to entry that seriously limits the ability to create more competitive and efficient generation markets. Hence, I believe that the development of an ability to exempt appropriately defined IPPs, in whole or in part, from PUHCA, as has occurred with QFs, would be a constructive legislative focus in the next Congress. Despite the complexity of PUHCA, I believe that it should be possible to enact a workable exemption regime that removes an

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2/ Orange and Rockland Utilities, Inc., et al., 43 FERC ¶ 61,067 (1988).

3/ Id. at pages 61,199 et seq.

4/ Id. at pages 61,197 et seq. and 61,199-17 et seq.

unnecessary barrier to IPPs development without raising serious concerns amongst those who believe PUHCA still serves a legitimate role in our public utility regulatory structure in protecting consumer and investor interests.

(2) Do you have any concerns in the way the Northeast Open Season has been conducted?

- What is your assessment of the ongoing settlement efforts being conducted by FERC?

- Is this settlement process providing all parties, particularly local communities, a meaningful opportunity to participate in the Commission's decision-making process?

- Does this process ensure that the project with the least environmental impact and lowest cost to the consumer will be selected?

- Is FERC's use of the settlement process going to arrive at a final selection of natural gas projects before any analysis to environmental impact and need is considered?

(2) ANSWER:

The Northeast Open Season framework was instituted in order to facilitate the review of various pipeline proposals to provide new service to the northeastern United States. Since many of the proposals to serve the northeast are "mutually exclusive," within the meaning of Ashbacker Radio Corporation v. FCC, 326 U.S. 327 (1945), the Commission issued in order appointing a settlement judge to conduct settlement negotiations between the parties. The judge was instructed to pursue settlement of proposals that could result in discrete treatment, i.e., not mutually exclusive. The following is an assessment of settlements in general.

First, it has been my opinion that poorly funded, diverse groups; such as, local communities, do not receive a meaningful opportunity to participate in the settlement process. Furthermore, well funded special interest groups, e.g., pipelines and local distribution companies, have an incentive to bargain away the rights of the diverse interest groups in an effort to achieve their own objectives.

Second, it goes almost without stating that settlements do not produce the lowest cost to consumers. Nor do they achieve the least environmental impact possible. When settlements are pursued a trade-off is being made. That is, settlements reduce the time necessary in which a decision can be reached. As a trade-off, due process and precision are reduced. In short, settlements generally favor established firms at the expense of potential competitors. Moreover, the goals of well funded special interest groups are pursued at the expense of the poorly funded diverse interest groups.

Third, ideally final selection of natural gas projects should not be made before an analysis of environmental impact and need for the project is completed. However, if a settlement among the parties is reached, the Commission's decision making ability will be limited. For example, if the parties agree to present to the Commission only one proposal for a large pipeline to serve the northeast, it will be very difficult for the Commission to deny the application (assuming the Commission complies with its obligations under the National Environmental Policy Act).

(3) Do you believe that when the Optional Expedited Certificate procedure was created by FERC that the Commission intended the process would be used to certificate new major natural gas pipelines?

(3) ANSWER:

Yes. At the time the Commission was promulgating Order No. 436, I realized that major new natural gas pipelines could file for certification under the Optional Expedited Certificate (OEC) procedures. Of course, any pipeline that attempts to utilize the OEC procedure would have to comply with all of the procedural requirements. Specifically, a pipeline would have to demonstrate that it was willing to assume the financial risks associated with the project. Moreover, they would be required to undergo the same level of environmental review as projects proposing to be certificated under standard section 7(c) of the Natural Gas Act procedures.

In short, the OEC regulations were not designed to simply facilitate expedited local distribution company "by pass" proposals. They were designed for anyone who could meet the OEC regulation requirements.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 21, 1988

OFFICE OF THE COMMISSIONER

Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20501-6150

Dear Mr. Chairman:

I am pleased to submit my answers to the questions for the record of my September 19, 1988, confirmation hearing from Committee Members. If there are any questions or comments, please contact me at 357-8366.

I would like to take this opportunity to express my appreciation to you, Senator McClure, the Committee Members and the Committee staff for the assistance and courtesy extended to me during the confirmation process. I also want to thank you and the staff for the extra effort and expedition necessary to schedule the hearing so soon after the receipt of my nomination.

My best personal wishes to you and the Committee for a successful conclusion of the 100th Congress.

Sincerely,

Charles A. Trabandt

Charles A. Trabandt
Commissioner

Enclosure

ENCLOSURE

Commissioner Trabandt's Answers to the Questions for the Record of the September 19, 1988, Confirmation Hearing from Members of the Committee on Energy and Natural Resources.

1. Senator J. Bennett Johnston

Question on FERC's use of Probably Maximum Flood ("PMF") methodology to assess the safety of licensed dams.

The staff has informed me that other Federal agencies use the PMF methodology in dam safety assessments and that it has been standard practice at FERC for a number of years. The staff indicates that the PMF methodology is used for high risk dams where there is potential for loss of life in the event of a dam failure. The staff also indicates that there have not been exorbitant cost requirements resulting from the use of PMF.

I believe that the Commission must take all reasonable measures to ensure the public health and safety of the population potentially affected by a hydroelectric project in the FERC licensing program. As a result, I have supported, and in one case successfully proposed over the objection of the staff, the most stringent dam safety standards that can reasonably be required. Consequently, I am reluctant to reject currently accepted practices in the absence of a persuasive showing that a practice is unacceptably flawed. Nevertheless, in light of the concern expressed by you and Senator McClure in his questions, I would be willing to support an appropriate technical review with public participation of the PMF methodology.

I would respectfully emphasize, however, that the focus of the technical review should be on the technical adequacy of the PMF methodology to assess the safety of the licensed dam consistent with the Commission's statutory responsibility and applicable regulations. The National Academy of Engineering/National Research Council and other qualified independent groups could participate in or conduct such a technical review. There also should be provision for an appropriate form of public participation.

What follows is a more technical response to your question which has been provided by Commission staff.

The Commission staff's published engineering guidelines include design criteria for dam safety. The procedure for determining the appropriate criteria for a particular dam (known as the incremental damage procedure) does allow for risk, where that risk is borne solely by the dam owner, and downstream inhabitants are not placed in jeopardy. The PMF is thus not applied in all cases. However, where failure of the dam would entail loss of life, the Commission staff has determined that the PMF is the appropriate design criterion and fulfills the Commission's obligation to ensure public safety at licensed projects.

The methodology used by the FERC is also utilized by Federal agencies, including the Corps of Engineers and Bureau of Reclamation. The methodology is also supported by the Interagency Committee on Dam Safety in its report titled Federal Guidelines for Selecting and Accommodating Inflow Design Floods for Dams. The use of PMF, as a design criteria where loss of life due to a dam failure is considered unacceptable, is also recommended by reputable consulting firms, most industry experts, and many well-respected organizations, such as the U.S. Committee on Large Dams, International Commission of Large Dams, National Research Council, and American Society of Civil Engineers (ASCE). In recent reports published in 1985 and 1988 by the National Research Council and the ASCE, the methodology used by the FERC for determining spillway designs was fully supported. Flood events have occurred that approach estimated probable maximum floods. Therefore, although rare, the PMF is not so remote a possibility that it can be ignored in establishing dam safety criteria where loss of life is a concern.

Experts agree that the calculation of a flood return frequency in excess of the period of record cannot be computed reliably. Since the period of record in most river basins does not exceed 50 to 75 years, the establishment of a return frequency for floods above the order of 1000 years has no technical basis, and cannot be used as a design standard, particularly where loss of life is a factor. Further, it is staff's understanding that the National Research Council and Bureau of Reclamation endorse dam safety criteria similar to the Commission's criteria.

The Commission staff believes that its procedures for determining the inflow flood design criteria for dams are appropriate. Staff has always been available to meet with industry to discuss the design criteria. In addition to meeting frequently with individual licensees, staff has met to discuss the criteria with representatives of the industry such as Edison Electric Institute, Electric Power Research Institute, Hydro Users Group (representing industry from several midwestern states), and the National Hydro Association. Finally the Commission meets regularly with the Interagency Committee on Dam Safety to ensure the Commission's criteria remains current with those of other Federal dam safety agencies.

For a further discussion of this issue, please see my answers to Senator McClure's questions concerning Dam Safety under the heading "I".

ADDITIONAL QUESTIONS FOR THE RECORD

FROM SENATOR J. BENNETT JOHNSTON

FOR CHARLES A. TRABANDT

1. I am disturbed by information I have received concerning FERC's use of Probable Maximum Flood ("PMF") methodology to assess the safety of licensed dams. From what I am told, this method of judging risk to dams does not do what its name implies. That is, it does not calculate the probability that a given maximum flood will occur and thus leads to absurd results.

   For example, the probable maximum flood for one project in Wisconsin has been calculated to occur once in 35 million years, and yet under the PMF methodology this design standard would have to be met. Both the National Academy of Sciences and the Bureau of Reclamation have rejected the PMF methodology because of its unrealistic projection of risk.

   In light of these facts, would you be willing to support a review, with industry and public participation, of the appropriateness of using the PMF standard?

2. Senator Wendell Ford

Questions about concern over non-adherence by FERC's legal and technical staff to the Commission's rule on separation of trial and advisory functions.

A. As I mentioned at the hearing yesterday, under the DOE Organization Act, the Commission Staff reports to the Chairman. Therefore, I do not get involved with the internal workings of the technical offices and have no direct knowledge of personnel assignments, for either supervisory or nonsupervisory staff. To the extent I can identify the author of an advisory memorandum as a having been a witness in the hearing, I would not read or take into account his memorandum in my deliberations.

With regard to technical personnel participating in settlement conferences, as the deliberations there occur in confidence, I cannot know of any conflicts. Here, again, assuring adherence to the law falls under the responsibility of the office directors.

Nevertheless, I think the Commission rule must be enforced and any personnel involved in administrative trial proceedings, including settlement conferences, should be disqualified from participation in advisory matters in the same proceedings. I should note that I have not personally heard the concerns expressed to you, nor am I aware of any allegations of violations of the rule in any particular case. Nevertheless, I share your concern for the integrity of the Commission's process. The separation of function rule must be enforced in all cases.

B. Because I am not involved in the management of the Commission, I do not have direct knowledge of whether the General Counsel or the supervisory Associate General Counsels discuss evidence with trial staff or otherwise have a say in the conduct of particular trials. If they do, I would expect them to recuse themselves from advising the Commission on that particular case or a related matter. Because the Commissioners do not run the agency, I cannot know whether a conflicted supervisor participated in the drafting or review of orders.

I think, however, the FERC General Counsel and Associate General Counsels of necessity must be involved in the advisory function of the Office of General Counsel. Consequently, they should be disqualified from supervision of or participation in administrative trial proceedings. The respective Assistant General Counsels for the trial sections of OGC should provide the supervision of the legal staff in the case, while the General Counsel and the Associate General Counsels would have general administrative responsibility.

C. I would be prepared to support assignment of a FERC employee to overseeing strict compliance with the separation of functions rule by both legal and technical staff. I also believe there should be an appropriate mechanism for confidential reporting of allegations of violations of the separation of functions rule to provide a focus for enforcement of the rule.

ADDITIONAL QUESTIONS FOR THE RECORD
FROM SENATOR WENDELL FORD
FOR CHARLES A. TRABANDT

Recurring concerns have been voiced over nonadherence by FERC's legal and technical staff to the Commission's separation of trial and advisory functions rule.

A. It is my understanding that in the electric rate, natural gas, and oil areas, many supervisory and non-supervisory technical personnel play a major participatory and strategy development role in administrative trial proceedings, including settlement conferences.

Would it be your practice to identify and preclude such personnel from advising the Commission on the merits of litigated cases or certified settlements? If not, how would you insure compliance with the separation of function rule by technical personnel?

B. FERC's office of General Counsel is organized into separate advisory and litigation units to implement the separation of functions rule. However, FERC's General Counsel and Associate General Counsels supervise both trial and advisory legal staff. If such supervisory personnel provides evidence or discusses with legal or technical trial staff, the conduct of a particular ongoing administrative trial or trial strategy, how would you insure against being advised by the General Counsel or Associate General Counsels in the same proceeding or factually related case?

C. Would you be prepared to support assignment of a FERC employee to overseeing strict compliance with the separation of functions rule by both legal and technical staff?

3. Senator James A. McClure

A. Commission Authority to Review BPA Rates

1. I agree that the Commission's authority to review BPA rates does not include any review under the Federal Power Act.

2. I also agree that the Northwest Power Act does not mention the Federal Power Act in describing the standards for review of BPA rates.

B. Review of BPA Power Exchanges

I agree that BPA's power exchanges are not subject to Commission jurisdiction as a matter of law.

C. BPA's Ability to Repay Treasury

I affirm the Commission's commitment to our nation's taxpayers and electric ratepayers in the Pacific Northwest to enable BPA to recover its costs and repay the Treasury, as discussed in this section.

D. BPA - California Relationship

1. I am generally very supportive of promoting mutually beneficial transactions between the Pacific Northwest and Pacific Southwest regions.

2. If confirmed, I will support and encourage the continuation of this vital energy partnership between the two regions.

General Comment: I dissented vigorously in the Commission's decision to reverse past precedent on the 7(k) issue and the Intertie Access Policy issue. In my judgment, the Commission management has been engaged in an obvious and concerted effort, contrary to the plain meaning and Congressional intent of the Pacific Northwest Power Act, to assert Federal Power Act-type regulation over BPA and to extend Commission jurisdiction over other areas of BPA activity. I am hopeful that the Full Commission will adopt positions completely consistent with the plain meaning and Congressional intent of the Act. In that regard, I was encouraged by Commissioner Stalon's statement that his office is engaged in a legal review of the Act and the 7(k) issue.

E. Natural Gas Open Access Transportation

1. Chairman Hesse has indicated that the Commission will consider final rules under Order No. 500 by the end of 1988. However, the Commission has received no recommendations for action as of this date. I have urged repeatedly in separate opinions and speeches over the last year that the Commission should proceed promptly to complete the take-or-pay survey mandated by Order No. 500 and then issue a final rule. As discussed at the hearing, the data underlying that survey is now badly out of date and stale, and thus needs to be updated quickly for our review. I can provide no explanation for the continued delay in action on a final rule. I would speculate, however, that a primary motivating factor has been a desire to maintain the Interim Rule in its current form for an extended period of time in order to gain further experience, and also to implement it in individual cases.

2. The following tables prepared by the Commission staff summarize pipeline activities. Table 1 lists pipelines under our jurisdiction. Table 2 lists open access pipelines which have accepted blanket certificates as of September 20, 1988. Table 3 lists open access pipelines performing Section 311 transportation only as of September 20, 1988. Table 4 lists pipelines not performing open access transportation as of September 20, 1988. Table 5 lists limited purpose pipelines that do not have a blanket certificate or perform section 311 transportation.

TABLE 1

Pipeline	Accepted Blanket Certificate	Section 311 Only
Alabama-Tennessee Natural Gas Company	-	-
Algonquin Gas Transmission Company	-	Yes
Algonquin LNG, Incorporated	-	-
ANR Pipeline Co.	Yes	-
ANR Storage Company	-	-
* Arkla Energy Resources, a division of Arkla, Incorporated	-	Yes
Bayou Interstate Pipeline System	-	-
Bear Creek Storage Company	-	-
Black Marlin Pipeline Company	-	-
Blue Dolphin Pipe Line Company	Yes	-
Bluefield Gas Company	-	-
Border Gas, Inc.	-	-
Boundary Gas, Inc.	-	-
C.B. Gas Gathering, Inc.	-	-
Canyon Creek Compression Company	-	-
Caprock Pipeline Company	-	Yes
* Carnegie Natural Gas Company	-	Yes
Chandeleur Pipe Line Company	-	-
Cimarron Transmission Company	-	-
Columbia LNG Corporation	-	-
Colorado Interstate Gas Company	Yes	-
Columbia Gas Transmission Corporation	Yes	-
Columbia Gulf Transmission Company	Yes	-
Commercial Pipeline Company, Inc.	-	-
Consolidated System LNG Company	-	-
CNG Transmission Corporation	Yes	-
Distrigas Corporation	-	-
Distrigas of Massachusetts Corporation	-	-
East Tennessee Natural Gas Company	-	-
Eastern Shore Natural Gas Company	-	-
* El Paso Natural Gas Company	-	Yes
Equitrans	Yes	-
Florida Gas Transmission Company	-	-
Freeport Interstate Pipeline Company	-	-
Frontier Gas Storage Company	-	-
Gasdel Pipeline System Incorporated	-	-
Gas Gathering Corporation	Yes	-
Gas Transport, Inc.	Yes	-
Granite State Gas Transmission Company	-	-
Great Lakes Gas Transmission Company	-	-
Hampshire Gas Company	-	-
High Island Offshore System	-	-
Honeoye Storage Corporation	-	-

* Commission or applicant action pending on blanket certificate applicati

TABLE 1

Pipeline	Accepted Blanket Certificate	Section 311 Only
Inland Gas Company, Inc., The	-	-
Jackson Prairie Underground Storage Project, Washington Natural Gas Company as operator	-	-
Jupiter Energy Corporation	-	-
K N Energy, Incorporated	-	-
Kentucky-West Virginia Gas Company	Yes	-
Lawrenceburg Gas Transmission Corporation	-	Yes
Lone Star Gathering Company	-	-
Louisiana-Nevada Transit Company	Yes	-
Michigan Consolidated Gas Company, Interstate Storage Division	-	-
Michigan Gas Storage Company	-	Yes
Mid-Continent Gas Storage Company	-	-
Mid Louisiana Gas Company	Yes	-
Midwestern Gas Transmission Company	-	-
MIGC, Inc.	Yes	-
Mississippi River Transmission Corporation	-	-
Mitco Pipeline Company	-	-
Moraine Pipeline Company	Yes	-
National Fuel Gas Supply Corporation	-	-
Natural Gas Pipeline Company of America	Yes	-
Northern Border Pipeline Company	Yes	-
Northern Natural Gas Company, Division of Enron Corp.	Yes	-
Northern States Power Company	-	-
North Penn Gas Company	-	-
Northwest Alaskan Pipeline Company	-	-
Northwest Pipeline Corporation	Yes	-
Ohio River Pipeline Corporation	-	Yes
Orange and Rockland Utilities, Inc.	-	-
* Overthrust Pipeline Company	-	-
Ozark Gas Transmission System	-	-
Pacific Gas Transmission Company	-	-
Pacific Interstate Offshore Company	-	-
Pacific Interstate Transmission Company	-	-
Pacific Offshore Pipeline Company	-	-
Panhandle Eastern Pipe Line Company	Yes	-
Pelican Interstate Gas System	-	-
Penn-Jersey Pipe Line Company	-	-
Penn-York Energy Corporation	-	-
Point Arguello Natural Gas Line Company	-	-
Phillips Gas Pipeline Company	Yes	-

* Commission or applicant action pending on blanket certificate applicati

TABLE 1

Pipeline	Accepted Blanket Certificate	Section 311 Only
Questar Pipeline Company	Yes	-
Raton Gas Transmission Company	-	-
Ringwood Gathering Company	Yes	-
RMNG Gathering Company	-	-
Sabine Pipe Line Company	Yes	-
Seagull Interstate Corporation	Yes	-
* Sea Robin Pipeline Company	-	Yes
South County Gas Company	-	-
South Georgia Natural Gas Company	-	Yes
Southern Energy Company	-	-
Southern Natural Gas Company	Yes	-
Southwest Gas Corporation	-	-
Southwest Gas Storage Company	-	-
Southwest Gas Transmission Company	-	-
* Stingray Pipeline Company	-	-
Superior Offshore Pipeline Company	Yes	-
Tarpon Transmission Company	Yes	-
TCP Gathering Company	-	-
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	Yes	-
* Texas Eastern Transmission Corporation	-	Yes
Texas Gas Transmission Corporation	Yes	-
Texas Gas Pipe Line Corporation	-	-
* Texas Sea Rim Pipeline, Inc.	-	-
Trailblazer Pipeline Company	-	-
Transco Gas Supply Company	-	-
Transcontinental Gas Pipe Line Corporation	Yes	-
Transwestern Pipeline Company	Yes	-
Trunkline Gas Company	Yes	-
Trunkline LNG Company	-	-
U-T Offshore System	-	-
Union Light, Heat and Power Company, The	-	-
United Gas Pipe Line Company	Yes	-
Urbana Corporation	-	-
Valero Interstate Transmission Company	Yes	-
Valley Gas Transmission, Inc.	Yes	-
West Texas Gas, Inc.	-	-
West Texas Gathering Company	-	-
Western Gas Interstate Company	-	-
Western Transmission Corporation	Yes	-
Williams Natural Gas Company	Yes	-
Williston Basin Interstate Pipeline Company	-	Yes
Wyoming Interstate Company, Ltd.	-	-
Zenith Natural Gas Company	-	-
TOTAL 125	37	12

* Commission or applicant action pending on blanket certificate applicati

TABLE 2

Open-Access Pipelines Which Have Accepted Blanket Certificates as of September 20, 1988

ANR Pipeline Co.
Blue Dolphin Pipe Line Company
Colorado Interstate Gas Company
Columbia Gas Transmission Corporation
Columbia Gulf Transmission Company
CNG Transmission Corporation
Equitrans
Gas Gathering Corporation
Gas Transport, Inc.
Kentucky-West Virginia Gas Company
Louisiana-Nevada Transit Company
MIGC, Inc.
Mid Louisiana Gas Company
Moraine Pipeline Company
Natural Gas Pipeline Company of America
Northern Border Pipeline Company
Northern Natural Gas Company, Division of Enron Corp.
Northwest Pipeline Corporation
Panhandle Eastern Pipe Line Company
Phillips Gas Pipeline Company
Questar Pipeline Company
Ringwood Gathering Company
Sabine Pipe Line Company
Seagull Interstate Corporation
Southern Natural Gas Company
Superior Offshore Pipeline Company
Tarpon Transmission Company
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Texas Gas Transmission Corporation
Transcontinental Gas Pipe Line Corporation
Transwestern Pipeline Company
Trunkline Gas Company
United Gas Pipe Line Company
Valero Interstate Transmission Company
Valley Gas Transmission, Inc.
Western Transmission Corporation
Williams Natural Gas Company

TOTAL 37

TABLE 3

Open-Access Pipelines Performing Section 311 Transportation Only as of September 20, 1988

- Algonquin Gas Transmission Company
- * Arkla Energy Resources,
  a division of Arkla, Incorporated
- Caprock Pipeline Company
- * Carnegie Natural Gas Company
- * El Paso Natural Gas Company
- Lawrenceburg Gas Transmission Corporation
- Michigan Gas Storage Company
- Ohio River Pipeline Corporation
- * Sea Robin Pipeline Company
- South Georgia Natural Gas Company
- * Texas Eastern Transmission Corporation
- Williston Basin Interstate Pipeline Company

TOTAL 12

* Commission or applicant action pending on blanket certificate application.

TABLE 4

Pipelines NOT Performing Open-Access Transportation as of September 20, 1988

Alabama-Tennessee Natural Gas Company
Algonquin LNG, Incorporated
ANR Storage Company
Bayou Interstate Pipeline System
Bear Creek Storage Company
Black Marlin Pipeline Company
Bluefield Gas Company
Border Gas, Inc.
Boundary Gas, Inc.
C.B. Gas Gathering, Inc.
Canyon Creek Compression Company
Chandeleur Pipe Line Company
Cimarron Transmission Company
Columbia LNG Corporation
Commercial Pipeline Company, Inc.
Consolidated System LNG Company
Distrigas Corporation
Distrigas of Massachusetts Corporation
East Tennessee Natural Gas Company
Eastern Shore Natural Gas Company
Florida Gas Transmission Company
Freeport Interstate Pipeline Company
Frontier Gas Storage Company
Gasdel Pipeline System Incorporated
Granite State Gas Transmission Company
Great Lakes Gas Transmission Company
Hampshire Gas Company
High Island Offshore System
Honeoye Storage Corporation
Inland Gas Company, Inc., The
Jackson Prairie Underground Storage
  Project, Washington Natural Gas Company
  as operator
Jupiter Energ Corporation
K N Energy, Incorporated
Lone Star Gathering Company
Michigan Consolidated Gas Company, Interstate
  Storage Division
Mid-Continent Gas Storage Company
Midwestern Gas Transmission Company
Mississippi River Transmission Corporation
Mitco Pipeline Company
National Fuel Gas Supply Corporation
North Penn Gas Company
Northern States Power Company
Northwest Alaskan Pipeline Company
Orange and Rockland Utilities, Inc.

TABLE 4

- 2 -

Pipelines NOT Performing Open-Access Transportation as of September 20, 1988

* Overthrust Pipeline Company
Ozark Gas Transmission System
Pacific Gas Transmission Company
Pacific Interstate Offshore Company
Pacific Interstate Transmission Company
Pacific Offshore Pipeline Company
Pelican Interstate Gas System
Penn-Jersey Pipe Line Company
Penn-York Energy Corporation
Point Arguello Natural Gas Line Company
Raton Gas Transmission Company
RMNG Gathering Company
South County Gas Company
Southern Energy Company
Southwest Gas Corporation
Southwest Gas Storage Company
Southwest Gas Transmission Company
* Stingray Pipeline Company
TCP Gathering Company
Texas Gas Pipe Line Corporation
* Texas Sea Rim Pipeline, Inc.
Trailblazer Pipeline Company
Transco Gas Supply Company
Trunkline LNG Company
U-T Offshore System
Union Light, Heat and Power Company, The
Urbana Corporation
West Texas Gas, Inc.
West Texas Gathering Company
Western Gas Interstate Company
Wyoming Interstate Company, Ltd.
Zenith Natural Gas Company

TOTAL 76

* Commission or applicant action pending on blanket certificate application.

TABLE 5

Certificate Authority Only (No FERC Tariffs), Limited-Purpose Pipelines (such as industrials) NONE of which have blanket certificates or do 311's

American Distribution Company (Alabama Division)
Eastern Natural Gas Company
Gaylord Container Corporation
Georgia-Pacific Corporation
Glacier Gas Company
Great Plains Natural Gas Company
Indiana Utilities Corporation
International Paper Company
Interstate Power Company
Iowa Public Service Company
Lone Star Gas Company, a Division of Enserch Corporation
National Fuel Gas Distribution Corporation
Pennsylvania & Southern Gas Company
South Penn Gas Company
Union Gas System, Inc.

TOTAL 15

3. The Commission has data on pipeline take-or-pay exposure and prepayments from several different sources. The Natural Gas Supply Association (NGSA) and the Interstate Natural Gas Association of America (INGAA) respectively completed surveys of their memberships, which were submitted for the record, and supplemented subsequently, at the Commission's April hearings on Order No. 500. The Commission also has conducted its own take-or-pay survey, from which I have received only a rough draft summary dated July, 1988, of pipeline information on an aggregated basis only. My request to have access to the disaggregated survey data remains unanswered at this time. That data is only current as of the end of calendar year 1986. Finally, the Commission has received some additional pipeline specific take-or-pay buy out and buy down data in the filings associated with the individual pipeline filings for Order No. 500 direct billing cases being processed by the staff.

   It is my understanding that the Commission does not have a single authoritative rack-up of take-or-pay data as you have requested it, other than the Order No. 500 survey. I believe the Committee already has copies of the recent NGSA and INGAA survey materials. Consequently, Commissioner Stalon and I have requested that the staff provide the Committee with (1) take-or-pay data prepared for Chairman John Dingell of the House Energy and Commerce Committee in April, 1987, (2) the summary of the Order No. 500 take-or-pay survey and (3) a summary of the take-or-pay data in individual filings in the Order No. 500 direct billing cases. I am forwarding the response from the Commission staff with the requested information and data. I respectfully would call the Committee's attention to the staff's assertion that Tabs B and C are privileged and deserve confidential treatment as predecisional documents. I express no personal opinion on the question of privilege and confidentiality, and request that the Committee address any comments or questions on the handling of these documents to the General Counsel of the Commission. Because of the staff's claim of privilege and confidentiality, I am providing one copy to the Committee for such handling as the Committee deems appropriate. I also would like to emphasize that the material provided by the staff has not been reviewed by the Full Commission and does not represent the analysis or views of the Commissioners. I hope this arrangement will be satisfactory.

4. Several pipeline executives testifying at the Commission's April hearings on Order No. 500 asserted that their companies experienced a worsening of take-or-pay exposure as a result of becoming an open access transporter. The take-or-pay data available to the Commission also indicates that a number of pipelines did experience this so-called "second wave" of take-or-pay exposure as a result of open access transportation. The Commission in Order No. 500 concluded last year that there was a need for a take-or-pay crediting mechanism to address the potential worsening of take-or-pay exposure resulting from transportation services, including the controversial cross crediting mechanism to ensure that the crediting mechanism would be effective. The testimony of some pipeline executives at the April hearings was to the effect that the crediting mechanism was not successful in offsetting or reducing significantly additional exposure. Also, the widespread renegotiation of take-or-pay contracts by pipelines and producers in 1987 and 1988 should have resolved significant amounts of potential exposure otherwise accruing this year. An updated take-or-pay survey with current 1988 data would provide a current data base to assess that problem further.

F. FERC "Electricity Strategy"

1. My review of the initial comments in the three Notices of Proposed Rulemaking (NOPR) Docket Nos. RM88-4, 5 and 6 led me to propose informally for the witnesses at the Commission's public hearing on the NOPRs in July that the Commission proceed with an alternative approach. I recommended that the NOPR on competitive bidding (RM88-5) be restructured as the functional equivalent of a policy statement supporting competitive bidding under PURPA at the discretion of an individual

state. I also recommended that the NOPR on avoided cost (RM88-6) be limited to the issue of the need for power and capacity payments. I recommended that the NOPR on independent power producers (IPPs) provide certain guidelines on non-rate matters for individual cases. I further recommended that the Commission take no action on the pending IPP and competitive bidding NOPRs until a NOPR on transmission regulation has been developed. Subsequently, I requested that all parties comment on this alternative approach in their reply comments just filed. If the Commission concluded that action was appropriate on the broader concepts in the original NOPRs, I would recommend that there be a thorough review of the thousands of pages of comments, as in a Notice of Inquiry proceeding, and that the Commission issue a subsequent, new Notice of Proposed Rulemaking in each substantive area. I remain unpersuaded at this point that there is any need for, or merit in, generic rules as proposed in the NOPRs on competitive bidding, IPP regulation, and many aspects of the avoided cost NOPR. I also continue to oppose strongly the Federal preemptive and Federalization of state program features of the pending NOPRs, which have been adopted already in several individual cases.

2. The Commission has not acted on a transmission NOPR because until recently all available resources were devoted to the "Electric Strategy" NOPRs and a fourth PURPA technical NOPR. Currently, a transmission task force with representation of the Commissioners' staffs is in the early stages of reviewing Commission transmission policy, leading toward consideration of options for generic action later this year or early next year.

3. a. In my judgment, the Commission is obviously seeking to implement major features of the pending NOPRs in individual cases such as Ocean State, where I dissented vigorously on that ground, among others. The Commission in the IPP NOPR sought public comment on three options for IPP ratemaking in the context of the proposed new IPP policy. For all practical purposes, the Ocean State decision adopted one of them for an affiliated

project in a manner clearly intended as a precedent for future IPPs, even before the public comments were reviewed in the NOPR docket. There have been several other recent cases which have clearly been intended to adopt NOPR proposals as precedents for future action, including Industrial Cogenerators v. Fla. PSC, Docket No. EL88-10, Orange and Rockland, Docket No. EL87-53, Oxbow Geothermal, Docket No. QF88-256 and Dominion Resources, Docket No. EL88-11.

b. Setting generic policy in individual cases has been sustained on judicial review as a legal matter in most circumstances. As a result, the choice of generic rulemaking vs. adjudication is a matter of policy discretion for the Commission. I believe it is institutionally disingenuous, at best, to seek public comment generically on a major proposal and then, while public comments are under preparation or review, to adopt the proposals in an individual case. With regard to the three pending electric policy NOPRs, it is obvious that the Commission is pursuing a strategy of adopting as many of the separate proposals in the NOPRs as possible in individual cases, despite an overwhelmingly negative response in the public comments. In essence, such an approach makes a farce of the rulemaking process and demonstrates further that FERC simply is not interested in the differing views of others. Such a result abuses fundamentally regulatory authority and discretion. However, there may be selected situations not involving NOPR proposals where the agency has no experience in the issue, and the Commission needs to develop expertise and to decide issues through the process of accretion of precedent. There, we should act on a case-by-case basis.

c. That approach clearly denies interested and affected parties a fair opportunity to participate in the policymaking in perhaps the worst possible way. Public comments are sought in the rulemaking docket on the generic proposal, but then completely ignored in the actual decisionmaking process associated with the individual case. That effect is compounded negatively where, as in Ocean State, the public comments from almost all sides were overwhelmingly in opposition to the avoided cost/marginal cost approach adopted. For all practical purposes, the Commission there extended PURPA rate benefits to an affiliated producer of the purchasing utilities without any legal foundation, despite all the opposing public comments in the IPP NOPR docket.

In cases where we act through adjudication, the Commission should attempt to compensate for not having had full participation by more liberally allowing other, later parties to raise new arguments in their individual situations than would be the case with regulations. See, e.g., Raton Gas Co. v. FERC, D.C., Cir. No. 87-1021 (July 29, 1988).

G. Oil Pipeline Regulation

The Commission under existing law potentially could streamline and reduce the burden of oil pipeline regulation in two principal ways. First, the administrative processing of rate filings under the guidelines established by Opinion No. 154-B probably could be streamlined significantly in light of the subsequent Commission and oil pipeline experience in implementing that Opinion. I would support a review of the administrative processing and filing procedures on an expedited basis to reduce the current burden of such regulation. For example, oil proceedings could be expedited by the Commission adopting well-defined filing requirements for oil pipelines so that the companies know precisely what information and data to file with the Commission in order that there will be no delay in the processing of the applications. The Commission could also decide a leading case so that the issues are defined and the Commission policies are established. Or the Commission could reaffirm its already adopted policies and guidelines in a fully developed rulemaking.

Second, the Commission should pursue the effort underway in the Buckeye Pipe Line Company, Docket No. IS87-14-000, et al. to explore the possibility of increased reliance on competition and market forces for oil pipelines found through formal adjudication to be in competitive oil transportation markets. (Order issued July 15, 1988). The burden of current rate regulation could be reduced potentially for oil pipelines operating in such markets. While the formal adjudication in the Phase I proceedings of such cases would constitute a possible burden, the opportunity for some relaxation in rate regulation would be worth the effort for most oil pipelines. Also, a generic rulemaking modeled on the Buckeye concept and other available options could provide more broad based relief to oil pipelines on an industry-wide basis, albeit after the completion of an informal rulemaking process involving adequate time for full public participation. I would support early action on generic oil pipeline regulation under existing law. Obviously, Congress may consider amendment of existing law in legislation introduced in the next Congress, such as the Administration bill introduced this month by Senator Nickles. In the meantime, however, I believe the Commission should initiate action as soon as possible to address streamlining and reforming existing regulation.

H. U.S. - Canada Free Trade Agreement

It is my understanding based on review of the Agreement, informal discussions with U.S. Special Trade Representative officials, and review of the legislative history of the implementing legislation just passed by the Senate this week that the Agreement should have no identifiable affect on, or require changes to, the Commission's current natural gas regulations, including Opinion No. 256 and Order No. 500. Of course, it may be possible that the Agreement may be argued to have an affect in a future case or controversy in some way not now foreseeable. Under existing Commission natural gas regulations, policies and practices, however, I do not envision any area where the Agreement would have an impact. Furthermore, as discussed at the hearing, I remain committed to the concept of fair trade in the Commission's treatment of Canadian and American natural gas, which as applied in individual cases should be consistent with the letter and spirit of the Agreement.

I. Dam Safety

1. QUESTION: What criteria does the Commission use to evaluate the adequacy of dams to handle floods? How was that criteria developed, and how long has it been in use?

ANSWER: The Commission staff has provided the following information. The criteria used by the FERC staff is generally known as the incremental damage or assessment approach and was promulgated in Regulations issued in 1981. The Commission's Order No. 122, issued January 21, 1981, states that the adequacy of a spillway must be evaluated by considering the hazard potential which would result from failure of the project works during flood flows. If failure of the project works would present a hazard to human life or would cause significant property damage, the project works must be designed to either withstand the loading or overtopping which may occur during a flood up to the probable maximum flood, or to a lesser flood level where a failure would not constitute a hazard to downstream life and property. This methodology develops what is commonly known as the inflow design flood for spillway design and in many instances results in criteria substantially less than the probable maximum flood.

This methodology was developed using state-of-the-art analytical methods for estimating flood levels due to dam failures. The FERC policy is to impose only those dam modifications that are needed to adequately protect downstream life and property.

2. QUESTION: Since the development of that criteria, have there been any developments (e.g., studies, reports, analyses) which would suggest that this criteria is no longer appropriate or valid?

ANSWER: The Commission staff has provided the following information. The FERC staff is not aware of any studies or reports that demonstrate the inappropriateness of its criteria. According to staff, most agencies and industry experts agree that the FERC criteria is appropriate. For instance, subsequent to issuance of the FERC's regulations, the Corps of Engineers, U.S. Bureau of Reclamation, and other agencies and organizations adopted a similar design flood criteria. There have been additional studies and reports published by the Bureau of Reclamation and American Society of Civil Engineers that provide a methodology for assessment of the cost of physical property damage due to a dam failure. However, they are not aware of studies that evaluate the loss of life. As they have advised licensees, any studies that adequately support the conclusion to use a design flood less than the probable maximum flood will be considered with a view toward seeking the most cost-effective approach while ensuring adequate protection of life and property.

3. QUESTION: As a practical matter, how is the criteria utilized by the Commission when reviewing individual dams?

ANSWER: The Commission staff has provided the following information. Where loss of life due to a dam failure is a factor, it would be an abrogation of the Commission's responsibilities under Section 10(c) of the Federal Power Act to not adequately protect life, health, and property. Accordingly, where loss of life could occur, the Commission's staff requires design floods up to the probable maximum flood as a design criteria. Staff asserts that, as a practical matter, if licensees conduct the appropriate analyses using the FERC methodology, i.e., the incremental damage approach, it can often be shown that the design flood will be less than the probable maximum flood.

Staff notes that many spillways that require modification by FERC are so deficient that modifications would be required even if, as suggested by some industry representatives, criteria were used that would place the lives of the public at risk.

4. QUESTION: Under what circumstances does the Commission use a cost-benefit analysis in determining whether or not changes should be ordered to be made to dams?

ANSWER: The Commission staff has provided the following information. The Commission's staff has accepted spillway designs that consider the cost of property damage downstream. Where the costs of property damages do not warrant modifications, such modifications are not required. Each dam site and river basin have unique physical characteristics. Therefore, if a licensee is willing to conduct appropriate studies on downstream effects from a dam failure, the incremental damage methodology criteria used by FERC can be used to define the limits of damages and a measure of the cost-effectiveness of required modifications.

5. QUESTION: How many dams has the Commission reviewed to determine whether or not they meet the Commission's flood criteria?

a. How many of these has the Commission found to satisfy the criteria? Have all of these been notified of that determination?

b. How many are still under review?

c. How many has the Commission found to not satisfy the flood criteria? Please identify and give the Commission's best estimate of the cost required to make the necessary improvements. Have any of these determinations been appealed to the Commission?

ANSWER: The Commission staff has provided the following information. The Commission has almost 2200 dams under its jurisdiction. Of these, less than 10% (about 200) have required modifications, including both stability and spillway deficiencies. All other dams have been determined to meet FERC staff's design criteria, and the licensees have been officially advised of their determinations. Approximately 35 of the projects with identified deficiencies have spillways inadequate to prevent overtopping of earthfill or rockfill dams. Overtopping has been identified as the number one cause of dam failures in the United States and throughout the world.

There are currently nineteen dams under review where the spillway has been determined to be inadequate to pass the inflow design flood. While final contractor bids are not available for all projects, licensees have estimated that the cost of modifications to these 19 projects will be about $48 million. Staff again notes that even using the probabilistic methodology suggested by a few industry representatives, most of the nineteen dams would require modifications in any event.

According to staff, industry for the most part supports the FERC criteria and that only one FERC dam safety order has ever been appealed to the Commission.

SENATOR JAMES A. McCLURE
QUESTIONS FOR FEDERAL ENERGY REGULATORY COMMISSION NOMINEES
September 19, 1988

Commission Authority to Review BPA Rates

In 1980 Congress passed the Pacific Northwest Electric Power Planning and Conservation Act. The Act was passed following significant and lengthy deliberations in both the House and the Senate. The Act redefined the review authority of the Commission regarding BPA rates. In the Act, Congress clearly departed from the past pattern of Commission review in favor of a limited, oversight role.

Congress withdrew rate design and cost allocation issues from Commission review of BPA's firm power rates and replaced this review with an appellate-type review limited essentially to assuring that BPA's firm power rates (a) recover BPA's costs and (2) repay the U.S. Treasury. For BPA's nonfirm rates, Congress provided additional procedural safeguards to BPA's nonfirm customers and retained, but did not expand, the Commission's review authority over nonfirm rates. The trade-off Congress made was to limit the Commission's review authority and to impose on BPA more stringent and complex ratemaking provisions as found in section 7(i).

Congress' enactment of the Northwest Power Act was thoughtful and deliberate, and Congress knew what it was doing. What should be obvious in Congress' enactment of the Act is the clear absence of any transfer of any Federal Power Act standards on either BPA ratemaking or Commission review. (Remember, the Commission uses its FPA procedural rules in 7(k) hearings). Recently, the Commission has taken some actions that do not seem consistent with its statutory authority for review of BPA rates.

1. Are you aware that Congress has specifically defined the Commission's authority to review BPA's rates under the Northwest Power Act and that this authority does not include any review under the Federal Power Act?

2. Are you aware that the Northwest Power Act does not even mention the Federal Power Act in describing the standards under which the Commission is to approve and confirm BPA's rates?

Review of Power Exchanges

I note that recently the Commission has also made inquiries in to BPA's capacity-for-energy exchanges of power. As you know, Congress has for over 50 years authorized BPA to enter into exchanges of power with other utilities, both inside and outside the region. Exchanges are mutually beneficial and have historically, permitted BPA and the utilities to realize operational efficiencies. But exchanges are not sales of power and thus do not require rates subject to Commission review.

Are you aware that BPA's exchanges with regional and extraregional utilities are not sales of power and do not require rates, so the Commission has no jurisdiction to review exchanges?

BPA's Ability to Repay Treasury

BPA has strict statutory requirements to recover its costs and repay the U.S. Treasury. Historically, the Commission has rendered decisions which assist in protecting the U.S. taxpayers' investment in the Federal Columbia River Power System.

Recently, however, it has been recommended that the Commission take away from BPA its flexibility to charge above-cost for its nonfirm energy--in order to offset its below-cost sales--so that on average BPA recovers the full cost of producing nonfirm energy. Such a recommendation guarantees BPA an underrecovery of costs if it cannot offset sales made at prices which are below cost and which are often the only prices the market will bear. I find it difficult to understand how BPA can adequately recover its costs and repay Treasury if the Commission, in the course of regulating BPA's rates, tries to second-guess BPA's marketing decisions in a volatile energy market place.

As a Commissioner, will you affirm the Commission's commitment to our nation's taxpayers and electric ratepayers in the Pacific Northwest--a commitment which in the past has enabled BPA to recover its costs and repay the Treasury?

BPA-California Relationship

The Pacific Northwest-Pacific southwest Intertie was built over 20 years ago, electrically connecting California to the Pacific Northwest. The Intertie--both AC and DC--has allowed transfers of electricity to occur between the two regions which have provided tremendous benefits to ratepayers throughout the West.

Electric energy sales to California utilities represent about 20 percent of the Bonneville Power Administration's revenues and, working together, BPA and California utilities have saved consumers in both regions billions of dollars over the years. This partnership has also helped to assure repayment of the U.S. taxpayers' investment in the Columbia River Power System.

I am troubled, however, by recent Commission actions which could threaten this historic partnership. A recent Commission order could be interpreted to suggest that BPA should price its power sold to California at such a low rate that there would simply be no incentive to sell to California. This would obviously be an unwise disservice to both regions. I strongly urge you to look closely at this issue and to work to take actions that can allow mutually beneficial power transfers between the two regions to continue.

In this same light, I would note that BPA and Southern California Edison Company have recently announced a proposed 20 year transaction. This transaction is extremely important not just because it is a contract that clearly benefits ratepayers in both regions, but because it seems to be a major step toward improving the business climate between the Pacific Northwest and California. I would also just note that BPA had last January entered into 20 year agreements with the cities of Burbank, Glendale, and Pasadena.

1. Would you be generally supportive of promoting mutually beneficial transactions between the Pacific Northwest and Pacific Southwest regions?

2. If confirmed, will you support and encourage the continuation of this vital energy partnership between the two regions?

Natural Gas Open Access Transportation

1. On October 9, 1985, the Commission established its natural gas open access transportation program in Order No. 436. On June 23, 1987, the U.S. Court of Appeals for the D.C. Circuit vacated Order No. 436, largely on the grounds that it failed to address the take-or-pay problems of pipelines, and remanded the Order to the Commission for further proceedings. On August 7, 1987, the Commission issued Order No. 500 as an interim replacement for Order No. 436.

   It is now nearly three years since the Commission originally established its open access transportation program, and it is more than one year since that Order was vacated and interim regulations were put into place.

   Why haven't final rules yet been established for the open access transportation program? When can we expect that to occur?

2. Which pipelines have elected to become an open access transporter, and which have not? Of those who are an open access transporter, which are doing so pursuant to a blanket certificate?

3. What is the current status of pipeline take-or-pay exposure and prepayments of? Please provide data for the past five years on a

pipeline by pipeline basis.

4. Have any pipelines experienced a worsening of their take-or-pay problems as a result of becoming an open access transporter?

FERC "Electricity Strategy"

1. In your opinion, does the record established by the Commission on the proposed regulations governing independent power producers (Docket No. RM88-04-000), governing bidding programs (Docket No. RM88-05-000), and administrative determination of full avoided costs (Docket No. RM88-06-000) warrant and justify proceeding with final regulations in these matters?

2. What has delayed the Commission's issuance of a notice of proposed rulemaking regarding transmission pricing?

3. a. Is the Commission seeking to implement through individual cases (e.g., Ocean State Power, Docket No. ER88-478-000) the policies proposed in the "electric strategy" NOPRs?

   b. Is it appropriate to establish generic policy through narrow individual cases?

   c. Does that approach give all interested and affected parties a fair opportunity to participate in the policy making?

Oil Pipeline Regulation

1. What can the Commission do to streamline and reduce the burden of oil pipeline regulation?

U.S.-Canada Free Trade Agreement

1. Would the enactment of the U.S.-Canada Free Trade Agreement have any affect on, or require the Commission to make any changes to its natural gas regulations, particularly Opinion No. 256 or Order No. 500.

Dam Safety

1. What criteria does the Commission use to evaluate the adequacy of dams to handle floods? How was that criteria developed, and how long has it been in use?

2. Since the development of that criteria, have there been any developments (e.g., studies, reports, analyses) which would suggest that this criteria is no longer appropriate or valid?

3. As a practical matter, how is that criteria utilized by the Commission when reviewing individual dams?

4. Under what circumstances does the Commission use a cost-benefit analysis in determining whether or not changes should be ordered to be made to dams?

5. How many dams has the Commission reviewed to determine whether or not they meet the Commission's flood criteria?

    a. How many of these has the Commission found to satisfy the criteria? Have all of these been notified of that determination?

    b. How many are still under review?

    c. How many has the Commission found to not satisfy the flood criteria? Please identify and give the Commission's best estimate of the cost required to make the necessary improvements. Have any of these determinations been appealed to the Commission?

4. *Senator Lowell Weicker, Jr.*

1) The Electric Policy NOPRs

I appreciate the opportunity to share my views with you and the Committee on the Electric Policy NOPRs and related matters. I should note that I addressed some of these issues in my answer to Senator McClure's questions under the heading "F. FERC Electric Strategy." Generally, I believe that FERC has limited authority under PURPA to review state commission actions establishing avoided cost, as contained in section 210(h) providing for review of the state programs for consistency with the FERC implementing regulations. However, the Commission in a recent case, in my view, exceeded that authority by specifying specific details to a state PUC in its PURPA program. The 1980 FERC regulations left broad discretion to the states to establish avoided cost policies and I have opposed vigorously Commission proposals to preempt such state laws, as in the *Orange and Rockland Utilities, Inc.*, 43 FERC 61,067, *reh'g denied*, 43 FERC 61,546 (1988) pending judicial review and subject to public comment in the avoided cost NOPR. I have expressed the hope in a separate opinion that the 2nd Circuit Court of Appeals will remand the *Orange and Rockland* case to the Commission, so that we can reconsider that unfortunate decision and restore proper state authority.

The NOPRs would have a dramatic negative impact on states, such as Connecticut, implementing various forms of competitive processes, including competitive bidding and negotiation, for acquisition of power from qualifying facilities under PURPA. My separate opinion to the competitive bidding NOPR describes in detail the features of that NOPR and aspects of the other NOPRs, which would largely Federalize the state programs in accordance with FERC mandated requirements. For many states, possibly including Connecticut, the proposed rules would impose standards contrary to state law and practice as conditions for Federal approval of any competitive process. The net result for those states would be interruption and/or termination of those programs for no good public policy reason. Also, the Commission, in the *Industrial Cogenerator v. Florida PSC* case, has demonstrated that it intends to mandate the specific detailed implementation of its PURPA rules in the future, thus signaling that there will be virtually no state discretion in the future under any new rules.

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As to aspects of the NOPRs which might be pursued to Final rules, please see my answer to Senator McClure's question F.1. Also, I believe certain aspects of the fourth electric NOPR on PURPA technical issues could be beneficial. But, as I expressed in my concurring opinion to that NOPR, I am quite concerned that that fourth NOPR, in the aggregate, may be intended to extend PURPA section 210 benefits to non-qualified facilities, such as utility affiliates and independent power producers. Thus, I remain skeptical as to the eventual benefit of that proposed rule at this time.

As discussed above, the Orange and Rockland case bears directly on the NOPRs in the sense that it supports Federal preemption and Federalization of state programs, which are at the heart of the proposed rules. As I noted in my dissenting opinion in that case, the Commission was advised by the staff that the expressly generic decision adopted in the case was necessary to ensure that states did not use the flexibility provided in the 1980 regulations to circumvent the proposed rules in the NOPRs. Orange and Rockland in essence stands for the proposition that there is only one way to implement PURPA and that is "the FERC way" dictated in the proposed rules in the NOPRs. The Industrial Cogeneration case adds to that proposition the new enforcement dimension necessary to impose "the FERC way" on any non-complying state. The total picture, I believe, is clear and unambiguous to the effect that the Commission is attempting to Federalize all state programs and Federally preempt contrary state laws and practices as part of restructuring the generation sector of the industry. Orange and Rockland is an essential element in that effort, which I oppose vigorously.

The constraints placed upon utilities by PUHCA as related to the NOPRs recur in the area of ownership and operation of independent power producers (IPP). These constraints were the subject of a hearing before the House Subcommittee on Energy and Power last week, with testimony provided by the Commission's General Counsel. I did not review nor concur in that testimony, and it does not represent my position on the issue. I am still in the process of reviewing all the testimony presented at the hearing, which generally addresses the issue and more specifically addresses a proposal by the Edison Electric Institute for limited amendment of

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Omitted →

PUHCA. The public comments in the NOPR dockets by many electric utilities also addressed the need for amendment of PUHCA as part of the Commission's proposed IPP policy. Generally, utilities are seeking the authority to own and operate IPPs anywhere, including in some cases in their service area.

I have not yet come to any final conclusions on this issue, in part because of my continued disagreement with the current thrust of the IPP proposal. For example, there appears to be a wide divergence of opinion as to the definition of IPP to be used for PUHCA purposes, as well as NOPR purposes. At the same time, it is clear that an increasing proportion of new electric generation capacity in the United States will be in the form of non-traditional units, be they PURPA QFs, IPPs, or affiliated producers, such as Ocean State. Based on the most recent round of increases in projected demand over the next ten years, it is also clear that the nation may need flexibility in the development and financing of additional generating supply in the form of non-traditional units. Consequently, I think it is appropriate and timely to review the current limitations under PUHCA as they would apply to utility ownership and operation of non-traditional generating units.

2) I also appreciate the opportunity to discuss the Northeast Open Season proceeding. Since certain matters now pending still must come before the Commission, I do not want to prejudge any specific case. As a general matter, however, I believe we are making significant progress now after a somewhat slower start-up phase, to make the necessary decisions on pending proposals. I am very encouraged that we have had success in several orders since March in ruling that certain projects are discrete and thus could be considered on their substantive merits, including environmental issues, without the necessity of a lengthy comparative adjudication with other pending proposals. I also am pleased that the Commission has been able to authorize nine discrete projects and designate 21 projects as discrete. To date there are 13 projects still pending before the settlement judge as potentially competitive. At this point, we have approved projects which will provide significant additional quantities of natural gas to Connecticut and other Northeast states. The Commission has exceeded the expectations of many in

that regard, and I anticipate that the progress will continue in the months ahead.

The settlement process was initiated by the Commission with my active support after it became clear that the prior informal discussions among the parties and Commission staff had reached a point of diminishing results, if not impasse. I hasten to add that the settlement process is intended generally to encourage settlements between and among otherwise competing projects to develop a series of discrete projects which can go forward without a multi-year comparative adjudication. The Commission in any event must still address separately the substantive merits of each and every project, including environmental issues, rendered discrete by the settlement process. Further, the Commission must rule on the discrete nature of every project following an opportunity for public notice and comment. There already has been noteworthy success, which has led to Commission action to determine that certain projects pursuant to settlement are now discrete. In the absence of the settlement process, it is highly unlikely that those projects could be considered separately at this time. Thus far, at least, the settlement process has been beneficial in our effort to provide significant additional natural gas supply to the Northeast states.

I share your concern with regard to public participation in our decision making process in the context of the settlement process. As noted, there is opportunity for public comment in any proposed determination that a project is discrete so that it may be processed separately and, if so determined, in the actual processing of each project proposal on the substantive merits, including environmental issues. The Commission thus far has remained sensitive to public participation and environmental issues in our review of each pending proposal. A recent example is the September 16 decision in Tennessee Gas Pipeline Company (Docket No. CP87-85-000) and our consideration of the concerns of the local officials of Burlington, Massachusetts, with the routing of the so-called Beverly-Salem lateral.

Nevertheless, I recognize that there could be serious concerns about the costs and environmental impacts resulting from any settlement agreement on one or two very large projects to supply major volumes of gas. If such a settlement agreement on one or two large projects materializes, which is difficult to predict at this point, the Commission would have to address the discreteness of the resulting proposal(s) and also decide how to proceed to address the substantive merits of the proposal(s) and any identified alternatives. To that end, by order issued on July 27th, all remaining pending projects in their current formulation are required to provide all environmental information, including state agency comments, for processing of environmental analyses and environmental impact statements, where required. Also, any modified project or reformulated project resulting from the settlement process must file an amendment to its prior certificate application to provide full public notice of the restructured project, as we required with certain portions of the APEC project in our September 16th order in Docket No. CP87-451-000, et al.

I am satisfied, as a result, at this point that there should not be any final selection of any project before analysis of environmental impact and need is completed and considered by the Commission. I have expressed some concern, however, that the settlement process could lead to the result that Canadian natural gas supply might have an advantage over domestic natural gas supply, because of the mix of specific projects remaining in the proceeding at this point. Nevertheless, there should not be a fait accompli as to any particular project proposed as discrete in a settlement, as far as the Commission procedures are concerned.

3) There is good reason to believe that the Commission in formulating Order No. 436 and the Optional Expedited Certificate procedure had focused more specifically on applying the OEC regulations to small and intermediate size projects to provide additional competition and supply over limited distances. The regulations, however, do not expressly so limit their availability to such projects. The Commission has considered and approved longer line proposals for the Erie project in Great Lakes Gas Transmission Company, Docket No. CP86-423-000, December 22, 1986 and the WyCal project in Docket Nos. CP87-479-000 and CP87-480-000 (July 1, 1988) with numerous conditions and extensive requirements. The Commission obviously is grappling with ways to expedite the availability of additional

natural gas supplies to the Northeast and California, while balancing the risks to ratepayers and ensuring full compliance with environmental laws. The OEC proposals pending in the Northeast Open Season proceeding have not been considered thus far, apart from environmental reviews already underway. It remains to be seen whether the Commission will choose to act on the Northeast OEC proposals. I have requested that action be considered for those proposals which would provide direct access for domestic supply to the Northeast market, in order to preserve that option for domestic producers and Northeast consumers. I recognize, however, that you and others have very serious and quite legitimate concerns about the due process, rate and environmental aspects of OEC proposals. The Commission must consider and satisfy those concerns fully before proposing to act on any OEC project in the Northeast proceeding. I will ensure that my staff and I seek that result in those proceedings.

Questions for FERC Commissioner Charles Trabandt
Senator Lowell Weicker, Jr.

1) Commissioner Trabandt, as you know FERC's Electric Notice of Proposed Rulemakings (NOPRs) has raised many concerns. In earlier hearings before this Committee you expressed serious reservations about the rulemakings. On this subject would you please summarize your current concerns, especially to the following issues:

   - FERC's authority to preempt state determinations and laws establishing avoided cost,
   - The impacts of the NOPRs upon states implmenting competitive bidding systems,
   - What aspects of the NOPRs that could be pursued to final rulemaking and would be beneficial to the industry and consumers,
   - Your assessment of the relevance of the Orange and Rockland case upon the consideration of the NOPRs,
   - Your assessment of the constraints placed upon utilities by the Public Utilities Holding Company Act related to the NOPRs.

2) Do you have any concerns in the way the Northeast Open Season has been conducted?

   - What is your assessment of the ongoing settlement efforts being conducted by FERC?
   - Is this settlement process providing all parties, particularly local communities, a meaningful opportunity to participate in the Commission's decision-making process?
   - Does this process ensure that the project with the least environmental impact and lowest cost to the consumer will be selected?
   - Is FERC's use of the settlement process going to arrive at a final selection of natural gas projects before any analysis to environmental impact and need is considered?

3) Do you believe that when the Optional Expedited Certificate procedure was created by FERC that the Commission intended the process would be used to certificate new major natural gas pipelines?